S. HRG. 100-253

LAND AND WATER CONSERVATION FUND ACT AMENDMENTS

HEARING

BEFORE THE

SUBCOMMITTEE ON
PUBLIC LANDS, NATIONAL PARKS AND FORESTS

OF THE

COMMITTEE ON ENERGY AND NATURAL RESOURCES UNITED STATES SENATE

ONE HUNDREDTH CONGRESS

FIRST SESSION

ON

S. 735

TO AMEND THE LAND AND WATER CONSERVATION FUND ACT OF 1965, AND FOR OTHER PURPOSES

JULY 14, 1987

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CONTENTS

	Page
S. 735	11

STATEMENTS

Berryman, Jack H., executive vice president, International Association of Fish and Wildlife Agencies	105
Bingaman, Hon. Jeff, a U.S. Senator from the State of New Mexico	7
Bumpers, Hon. Dale, a U.S. Senator from the State of Arkansas	4
Dunlop, George S., Assistant Secretary, Department of Agriculture	29
Horn, William P., Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior	15
Jarvis, T. Destry, vice president, conservation policy, National Parks and Conservation Association	87
Johnston, Hon. J. Bennett, a U.S. Senator from the State of Louisiana	1
Katz, John W., director of State/Federal relations and special counsel to Gov. Steve Cowper, State of Alaska; accompanied by G. Thomas Koester, assistant attorney general, State of Alaska	51
Koester, G. Thomas, assistant attorney general, State of Alaska	57
Mahoney, Tim, Washington representative, Sierra Club and chairman, Alaska Coalition	94
Murkowski, Hon. Frank H., a U.S. Senator from the State of Alaska	27
Stevens, Hon. Ted, a U.S. Senator from the State of Alaska	8
Tindall, Barry S., director of public affairs, National Recreation and Park Association	74
Wallop, Hon. Malcolm, a U.S. Senator from the State of Wyoming	48
Williamson, Lonnie L., vice president. Wildlife Management Institute	100

APPENDIX

Additional material submitted for the record	113

LAND AND WATER CONSERVATION FUND ACT AMENDMENTS

TUESDAY, JULY 14, 1987

U.S. SENATE,
SUBCOMMITTEE ON PUBLIC LANDS,
NATIONAL PARKS AND FORESTS,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC.

The subcommittee met, pursuant to notice, at 2:15 p.m. in room SD-366, Dirksen Senate Office Building, Hon. J. Bennett Johnston, chairman, presiding.

OPENING STATEMENT OF HON. J. BENNETT JOHNSTON, A U.S. SENATOR FROM THE STATE OF LOUISIANA

The CHAIRMAN. The hearing will come to order. The purpose of the hearing this afternoon is to receive testimony on S. 735, a bill which I introduced on March 12 to amend the Land and Water Conservation Fund Act of 1965.

S. 735 would create a special account within the Land and Water Conservation Fund. This account would have two funding sources: a portion, that is 25 percent, of the revenues due the United States from future oil and gas leasing activities in units of the National Wildlife Refuge System; and $160 million annually to be drawn from the authorized but unappropriated balance of the Land and Water Conservation Fund. This balance currently totals some $5.34 billion.

Monies credited into this special account from these two sources are to be made available for high priority federal land acquisition projects. These projects are to be identified by the appropriate land managing agencies on an annual basis through the submission of priority lists to the House and Senate Appropriations Committees.

These Committees would then allocate the funds from the special account to the agencies in accordance with the list and the amount of money available. Should the Appropriations Committees fail to allocate these funds, the Secretary of the Treasury would then be authorized and directed to make these monies available directly to the land managing agencies for land acquisition projects on the list in accordance with the formula provided in the bill.

This funding mechanism in effect is an automatic appropriation, so that if the Congress did not act to appropriate then the agencies would get $160 million, which is the average amount given to these agencies over the last seven years, plus these funds from the wildlife refuges, and they would be automatically—not automatically

spent, but automatically made available and spent on these priority lists.

And of course, the Congress could change the priority list. Indeed, they could repeal it altogether each year. But failing Committee action, they would be spent on the priority list.

With regard to the remainder of the revenues generated from future leasing on wildlife refuges, I should note that 50 percent would be made available to the state in which the refuge is located and 25 percent into the Treasury.

Having stated briefly what this bill does do, let me state what the bill does not do.

S. 735 does not open the Arctic National Wildlife Refuge to oil and gas leasing. I should say that over and over again, maybe two or three times. Nor does it indicate any preference, any inclination, any intention, any tilt, any direction, any prejudice in favor of that oil and gas leasing.

It does not open any unit of the wildlife refuge system to oil and gas leasing. In fact, this bill does not make any judgment whatsoever of any kind or nature respecting these leasing activities.

In addition, S. 735 does not affect the current disposition of revenues pursuant to existing oil and gas leasing in refuges. It does not reach back and impact the revenue sharing arrangements within the federal government, the states, or units of local governments which are funded pursuant to existing oil and gas activities in refuges.

Finally, S. 735 is not designed to be a comprehensive reform of the Land and Water Conservation Fund. I am aware that other proposals, including the recommendations of the President's Commission on the Great Outdoors, which Commission I have the honor to serve on, has suggested that major and fundamental changes be made in the fund, and I think we ought to look at those on another day.

Many of these proposals have merit and I am sure that Congress will address them. The bill before us today, however, is designed to deal with a much more specific issue, attempting to reduce the backlog of authorized but unacquired lands inside federal parks, refuges, and forests.

I believe that the approach embodied in S. 735 makes sense, that it is feasible and workable, and that it will enhance the nation's recreation and wildlife estate. I am prepared to work with those who want to improve the bill and look forward to the Committee's expeditious consideration.

At this point, I will place a copy of the bill in the hearing record and am pleased to welcome Assistant Secretary Horn of the Department of Interior and Assistant Secretary Dunlop of the Department of Agriculture as our first witnesses today.

And let me say, later we are going to have people from the environmental community. I want to repeat again, this does not in any way prejudice what we will do on ANWR. But just in case this Congress or some other Congress does make that decision in whole or in part, it would certainly be a nice thing to have a source of revenues to deal with what is a great unmet need and has been a great unmet need since I have been in the Congress for 15 years.

So, Secretary Horn, we are pleased to welcome you and Secretary Dunlop to the Committee, and please proceed. Both of your statements will be put into the record as if read in full. You may summarize or do whatever you like.

[The prepared statements of Senator Bumpers, Senator Bingaman, Senator Stevens and the text of S. 735 follow:]

STATEMENT BY THE HONORABLE DALE BUMPERS

The purpose of the hearing this afternoon is to consider S. 735 - a bill to amend the Land and Water Conservation Fund Act of 1965. This measure, introduced by Senator Johnston, would seek to make additional funds available to acquire lands authorized by Congress for inclusion in the National Park, Refuge, Wilderness and Forest Systems.

Primary funding would be derived from a portion of future revenues due the United States from oil and gas leasing inside units of the National Wildlife Refuge System. The bill provides that 50 percent of such revenues go to the state in which the refuge is located; 25 percent to the federal Treasury; and 25 percent to the Land and Water Conservation Fund.

Additional funds, $160 million per year, would also be available to be derived from the authorized but unappropriated balance of the Land and Water Conservation Fund - a balance which currently totals some $5.3 billion.

Together, these monies would be deposited into a special account to be used to reduce the backlog of authorized but unfunded land acquisition projects.

I am aware of some of the concerns that have been raised regarding this measure by several conservation organizations, the

State of Alaska, and others. However, I am hopeful that those concerns can be addressed and that the Committee will consider this proposal carefully.

Statement of Senator Jeff Bingaman
Land and Water Conservation Fund
July 14, 1987

I thank the Chairman for scheduling this hearing to consider his legislation to provide a dedicated fund for federal land acquisition that would be supported in part by revenues form oil and gas development in national wildlife refuges. I appreciate the strong leadership he has provided in support of the Land and Water Conservation Fund over the years. This is an issue for which I have an abiding interest.

Background of LWCF

As a result of the leadership and foresight of former New Mexico Senator Clinton P. Anderson and the efforts of the Conservation Congress, the Land and Water Conservation Fund was first created in 1964 to provide a source of funds for land acquisition, planning and development of recreation facilities. Through the Fund, money is available at the federal level (to the National Park Service, Bureau of Land Management, Forest Service, and Fish and Wildlife Service) and 50/50 matching grants are provided to state and local governments. More specifically, the Land and Water Conservation Fund provides for protection of lands and water for public outdoor recreation, including acquisition of new areas and additions to already established parks, forests, wildlife areas and other areas.

One of the major philosophies behind this Fund was that as the nation depleted its finite oil and gas reserves, a portion of the income from that extraction should be reinvested for public benefit by purchasing and preserving other natural and cultural resources.

The Land and Water Conservation Fund has proven extremely successful and represents the best in public policy. It has resulted in the preservation of many areas of natural and historic significance. Almost three million acres of federal land have been acquired with $3 billion since the origin of the Fund. In addition, almost $3 billion has been appropriated and matched by the states for planning, development and acquisition designed to improve the quantity and quality of outdoor recreation in this country. New Mexico has benefited significantly over the years from the

fund through the acquisition of new park units, wildlife refuges and outdoor recreation areas.

Johnston Legislation

The Legislation we consider today would create a mechanism for providing a dedicated source of revenues for the fund. Under S. 735, 25 percent of all leasing fees, bonuses and royalties from oil and gas wells in wildlife refuges would be deposited in a new account to be established within the Land and Water Conservation Fund. In addition, the new account would receive $160 million annually from the authorized by unappropriated balances of the Fund, now estimated at about $5 billion. All of the money deposited in the special account would then automatically become available to the four main federal land managing agencies.

Some may argue that this approach is not the best method for financing the fund. However, I appreciate Senator Johnston's effort to explore alternatives and I look forward to working with him on this issue. I was also pleased that the President's bi-partisan Commission on Americans Outdoors recognized the importance of the Fund by recommending the establishment of a trust fund with a permanent appropriation of $1 billion.

I am interested in pursuing all alternatives that can provide a stable and permanent source of funding for the important purpose of federal land acquisition.

I look forward to hearing the testimony presented today.

TESTIMONY OF SENATOR TED STEVENS
ON S. 735
BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS,
SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES

July 14, 1987

Ted Stevens

Mr. Chairman, as the senior Senator from Alaska and as one intimately involved in Alaska's battle to achieve Statehood in the 1950's, I must oppose S. 735.

The Alaska Statehood Act is a compact between the people of Alaska and the federal government. Alaska accepted conditions set forth by Congress in exchange for benefits conferred by the Act. The reallocation of public land revenues proposed in S. 735 would deny Alaska one of those benefits.

Before Alaska became a State, the federal government agreed to dedicate 90 percent of the revenues from oil and gas leasing on federal lands to Alaska. The Mineral Leasing Act of 1920 entitles other states to 50 percent of of those revenues in direct payments. Of the remainder, 40 percent is placed in the Reclamation Fund, which is dedicated to projects in the 17 western public land States.

Alaska does not have access to the Reclamation Fund. This fact was a major reason for providing Alaska with direct payment of the entire 90 percent revenue share. Also important was Congress' recognition that an overwhelming percentage of Alaska was, and would continue to be, federally owned and that federal lands would not contribute

much to the economic development of Alaska. This insight was validated by the passage of the Alaska National Interest Lands Conservation Act in 1980, which closed more than a third of Alaska to most forms of development.

The 90 percent formula for Alaska has been waived only once. When the National Petroleum Reserve - Alaska (NPRA) was opened to leasing, Alaska agreed to accept only a 50 percent share of federal oil and gas revenues. NPRA, however, was reserved from oil and gas leasing by the federal government for its energy potential prior to Statehood. This fact justified a different treatment of revenues derived from the Reserve.

The main target of the bill before the subcommittee is the Arctic National Wildlife Refuge (ANWR), formerly the Arctic National Wildlife Range. Unlike NPRA, the Range was open to oil and gas leasing. Also, the Range was created a year after Alaska became a State. Therefore, the rationale used to justify the reduction of Alaska's share of federal revenues from NPRA cannot be applied to ANWR.

We Alaskans have zealously defended our rights under the Statehood Act since 1959. We have waived those rights only on rare occasions, such as the passage of the Alaska Native Claims Settlement Act in 1971. After consultation with Alaska's legislature, Alaska's governor joined our Congressional Delegation in agreeing to voluntarily return lands, the selection of which had received tentative approval from the Department of the Interior, in order that those lands could be conveyed by Congress to Alaska's Native people.

S. 735's basic goal -- acquisition of important recreational, scenic, and habitat lands by the federal government -- is sound. It would achieve its goal, however, by denying Alaska one of the fundamental benefits conferred by the Statehood Act without offering the State appropriate compensation. There must be a fairer approach, and I hope that we will be able to work with the distinguished Chairman of the Energy and Natural Resources Committee, who is the sponsor of S. 735 and a good friend of Alaska, to identify that approach.

Thank you, Mr. Chairman.

II

100TH CONGRESS
1ST SESSION

S. 735

To amend the Land and Water Conservation Fund Act of 1965, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 12, 1987

Mr. JOHNSTON introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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A BILL

To amend the Land and Water Conservation Fund Act of 1965, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Land and Water Conservation Fund Act of 1965, as amended, is further amended by adding the following new title:

"TITLE III—SPECIAL ACCOUNT

"SEC. 301. (a) Notwithstanding any other provision of law, all revenues received from competitive bids, sales, bonuses, royalties, rents, fees, interest charges or other income derived from the leasing of oil and gas resources within units

of the National Wildlife Refuge System pursuant to leases issued after the date of enactment of this title shall be distributed as follows:

"(1) 50 per centum to the State in which the refuge unit is located;

"(2) 25 per centum deposited into the fund; and

"(3) 25 per centum to miscellaneous receipts in the Treasury.

"(b)(1) Moneys deposited into the fund pursuant to subsection (a) shall be credited to a special account within the fund. In addition, there shall also be deposited into this special account, $160,000,000 per annum to be derived from those moneys comprising the authorized but unappropriated balance of the fund.

"(2) Funds deposited into the special account shall be available, without further appropriation, for Federal purposes as provided in section 7 of this Act and shall be allocated in accordance with this title.

"SEC. 302. (a) At the time of the submission of the President's budget, each Federal land managing agency eligible to receive moneys from the fund shall provide the Committee on Appropriations of the United States House of Representatives and the United States Senate with a list, in descending order of priority, of land acquisition projects (hereinafter in this title referred to as the 'priority list').

"(b) The priority lists shall be prepared by the Directors of the Bureau of Land Management, National Park Service, Fish and Wildlife Service, Department of the Interior, and the Chief of the Forest Service, United States Department of Agriculture, and shall reflect their best professional judgment regarding the land acquisition priorities of such bureau or agency.

"(c) In preparing such lists the following factors shall be considered: the amount of money anticipated to be made available in any one year; the availability of land appraisal and other information necessary to complete the acquisition in a timely manner; the potential adverse impacts on the park, wilderness, wildlife refuge or other such unit which might result if the acquisition is not undertaken; and such other factors as the land managers deem appropriate.

"SEC. 303. (a) The Secretary of the Treasury shall notify the Appropriations Committees of the Congress on an annual basis as to the amounts available for allocation within the special account established pursuant to this title.

"(b) The Appropriations Committees shall allocate the funds from the special account in accordance with the priority lists submitted pursuant to section 302(a) unless such lists are specifically modified in appropriation Acts or reports accompanying such Acts.

"(c) In allocating funds from the special account among land managing agencies the Appropriations Committees shall ensure that each agency receives a fair and equitable share in accordance with land acquisition needs, congressional directives, and historical patterns of distribution of the fund: *Provided,* That no agency shall receive more than 50 per centum of the funds available from the special account in any one year.

"(d) In the event that the Appropriations Committees fail to allocate the funds from the special account, the Secretary of the Treasury is authorized and directed to make such funds directly available to the land managing agencies to be used solely for land acquisition projects on the respective priority lists in accordance with the following formula:

"40 per centum to the National Park Service;

"40 per centum to the Fish and Wildlife Service;

"15 per centum to the Forest Service; and

"5 per centum to the Bureau of Land Management.".

○

STATEMENT OF WILLIAM P. HORN, ASSISTANT SECRETARY FOR FISH AND WILDLIFE AND PARKS, DEPARTMENT OF THE INTERIOR

Mr. HORN. Mr. Chairman, thank you very much. Let me summarize my statement.

Obviously, I am pleased to testify today and appear before you on this subject. I think that these topics are most important, particularly the future of the Land and Water Conservation Fund and in particular your bill, S. 735.

I think it is worth noting that the Land and Water Conservation Fund Act of 1965 was initially based on the notion that outdoor recreation activities be financed largely on a pay-as-you-go basis from fees collected from the direct beneficiaries, the users of the Federal lands and waters.

In 1968, the user sources of funding were expanded to include receipts from the Outer Continental Shelf leasing program, with an authorization ceiling that was initially established at $200 million and later expanded in 1979 to $900 million annually.

In recent years the budgetary situation has resulted in limited requests from the Administration for appropriations from the fund, and action by the Congress providing annual appropriations far below the $900 million authorization.

I think it is important to note in discussing this issue and others related to LWCF that it is not a genuine fund and there is no unappropriated group of dollars sitting somewhere in an account available for disposition. We think the best analogy is a Mastercard or a Visa card, in that we have a credit line of up to $900 million, and if Congress chooses to expend those dollars it of course has to do so with an appropriation.

This does not come from any type of specified fund where balances sit and are available in the future if not expended.

[The prepared statement of Mr. Horn follows:]

TESTIMONY OF WILLIAM P. HORN, ASSISTANT SECRETARY FOR FISH AND WILDLIFE AND PARKS, DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES, CONCERNING S. 735, AMENDING THE LAND AND WATER CONSERVATION FUND

Mr. Chairman, I am William P. Horn, Assistant Secretary for Fish and Wildlife and Parks of the Department of the Interior. I am pleased to be able to testify today on a subject which is quite important to me -- the future of the Land and Water Conservation Fund, and in particular Chairman Johnston's bill, S. 735, to provide a constant level and source of funds for Federal land acquisition.

The Land and Water Conservation Fund Act of 1965 was enacted to provide Federal assistance and funds to the States for the planning, acquisition and development of land and water areas, and to provide funds for federal acquisition of lands. The fund initially was based on the notion that outdoor recreation opportunities be financed largely on a "pay as you go" basis from fees collected from the direct beneficiaries -- the users of Federal recreational lands and waters. Originally, the fund consisted of revenues derived from several sources: entrance fees collected at Federal recreational areas, receipts from the sale of surplus property, and the motorboat fuel tax. In 1968, these sources were expanded to include receipts derived from the Outer Continental Shelf Lands Act, with the authorization ceiling initially established at $200 million and later (1979) expanded to $900 million annually. Unappropriated authority is carried forward for possible future appropriation. Authorization for the annual $900 million allocation under the Fund expires at the end of fiscal year 1989.

In recent years, the budgetary situation has resulted in limited requests

from the Administration for appropriations from the Fund, and action by the Congress providing annual appropriations far below the $900 million authorization, resulting in a cumulative balance in the authorization of approximately $5.1 billion. May I point out, Mr. Chairman, that this amount is not sitting in an account somewhere, but is currently available in the general Treasury for other uses. S. 735, by providing a constant level of funding, is intended to improve these land acquisition programs by having them again operate from a resource-based priority system, which would in turn permit planning on a multi-year basis.

As you know, I have gone to some lengths in attempting to provide a land acquisition program for the National Park Service and the Fish and Wildlife Service within the current efforts to reduce Federal spending. Emphasis has been placed on land protection by cooperative agreement, acquisition of partial interests, and when necessary, fee title acquisition has been sought through donation, partial donation, or exchange.

However, the Department's position on S. 735 has not changed since Chairman Johnston's discussion with Secretary Hodel during the June 2 hearing on our 1002 Report. The Secretary and I continue to find the elements of the legislation to contain some interesting concepts but due to the complexity of the entire LWCF issue, the Administration has not completed its review of the Fund program and the various options for its continuation. Therefore, while I will discuss some of the accomplishments of the Fund and the general options currently under review, I cannot at this time recommend approval or disapproval of S. 735 or offer any specific suggestions or alternatives.

While we are fully aware of this and other proposals for use of some portion of the Federal revenues from any oil leasing at the Arctic National Wildlife Refuge for Land and Water Conservation Fund or other conservation purposes, we believe it is premature to focus on the issue at this time. The Congress has just begun consideration of the basic question of whether the Refuge should be open to leasing. Accordingly, we believe decisions on disposition of any revenues, should the Refuge be made available for a lease program, could best be made in the context of whatever leasing program is approved.

However, I can assure you that an active interagency process to develop a comprehensive Administration proposal is underway. We expect to provide this information to you, with our recommendations.

To date, more than $6.6 billion has been appropriated from the Land and Water Conservation Fund, with $2.3 billion going for National Park land acquisition, $366 million for Fish and Wildlife Service land, $800 million for the Forest Service, $29 million for the Bureau of Land Management, and over $3.1 billion going to the States for their outdoor recreation programs. With these funds, the Federal agencies have purchased the following acreages: National Park Service - 1,577,778; Fish and Wildlife Service - 507,693; Forest Service - 1,200,000; and the Bureau of Land Management - 262,217. The States have acquired 2,328,545 acres from the state grant portion of the program.

Now, however, the authorization for the Fund is expiring, and it is time to explore new directions for meeting the objectives of the Fund, directions

more consistent with today's budgetary realities, and that recognize the achievements made under the LWCF in adding to the conservation and recreational estates of the Nation. Over the past 7 years, Congress has recognized that the money has simply not been available to fund the program at the statutorily authorized level of $900 million annually. No more than $335 million has been appropriated in any one year since 1980, and the average annual appropriation over the past thr years has been $160 million.

The Land and Water Conservation Fund is not a true trust fund, and contrary to the common perception, neither the $900 million annual authorization nor the hypothetical "$5.1 billion surplus" represents money sitting in the Treasury waiting to be appropriated. It is a bookkeeping account, an authorization, and nothing more. A more realistic analogy would be to the ceiling or credit limit on a credit card, rather than the amount in a savings account.

Just as an individual purchasing an item on his or her credit card must repay the cost of the purchase, rather than using that money for other needs, so any use of money authorized under the Land and Water Conservation Fund represents either a diversion of that money from another use or, in an option unavailable to the private citizen, a permanent increase in the national debt. We must face this central reality of no real money sitting on the shelf for the LWCF if we are to create a workable future for Federal conservation land acquisition programs.

The interagency group is exploring three basic concepts in our ongoing

review. One is a true trust fund for land acquisition; the second is a simple reauthorization of the present Land and Water Conservation Fund with a more realistic ceiling; and the third, similar in concept to S. 735, would establish a mechanism for level or guaranteed annual funding in amounts reasonably likely to be made available to the agencies under current budgetary conditions. We are also examining the questions of whether additional Federal agencies should be authorized to receive funds from the new LWCF, whether these monies should be available for operation and maintenance purposes as well as land acquisition, and whether the state grant portion of the program should be continued, and if so, in what form.

This concludes my prepared statement. I will be pleased to respond to any questions you may have.

The CHAIRMAN. Secretary Horn, let me stop you at that point and say, I have read your statement and I find it to be an excellent statement. I am very pleased at your statement that you cannot at this time recommend disapproval of S. 735.

Also, the first part of that sentence I just read out talking about that you could not recommend approval—all I saw was that you could not recommend disapproval, and I like that part of it very much.

I also like the fact that you find some interesting concepts in the bill, and I would say that this is as good as we can expect on this Committee. And I think it is very, very encouraging, and I want you to know I appreciate that position of you and Secretary Hodel with respect to this legislation.

Let me ask you this. Suppose we do go ahead and authorize the drilling on ANWR and this legislation were then up next year, or let us say we authorize drilling on ANWR and they discover some gas there, and then that goes into the federal budget's oil and gas, and those revenues go into the federal budget, and then we propose this bill the year after.

Do you think it would be as easy to get part of these revenues once the stream of revenues gets into the federal budget, if it did?

Mr. HORN. Mr. Chairman, I think it would be more difficult. I think there are an awful lot of people eyeing the prospective revenues that could be generated from a leasing program in the 1002 area. Obviously, once those revenues are actually generated and deposited in the General Fund, I think the competition within the government for access to those funds is going to increase, rather than diminish.

The CHAIRMAN. You say it is more difficult. That is really spelled impossible, is it not?

Mr. HORN. Well, I guess we would say, "more difficult". Obviously, you all make the final decisions on appropriating the dollars. I think the competition within the Executive Branch to lay claim to those dollars would be far more intense after the fact than it is in advance.

The CHAIRMAN. Now, Secretary Horn, recognizing that you cannot take a position on this bill one way or the other, but let us suppose that the Department were willing to endorse it—or whether you are willing to endorse it. I would like for you to look at the bill as a mechanism just to see whether the mechanism works properly and whether it is an efficient and proper and whether it is the best use of these moneys if we are going to spend them in this way.

Do you have any suggestions for us?

Mr. HORN. Within the Administration, as I indicated in the statement, we are engaged in a very active program to try to put together a comprehensive proposal dealing with the future of the Land and Water Conservation Fund. Our efforts are focused in at least three areas:

Number one, what is the best mechanism for us to employ? Should we go with a simple reauthorization of the current fund, this bank card account? Should we look at creation of a true trust fund? Or should we look at some other type of a variant, different contributed funds, or other ways of guaranteeing annual funding?

I think that we are very much interested in trying to explore different mechanisms, and the mechanism outlined in S. 735 is one that we have looked at in our internal deliberations.

The second aspect we have looked at is what is an appropriate funding level? Should the funding level be generated by the receipts that come in? If you earmark some sources of revenue, should we pick a funding level that reasonably gets the job done in terms of adding lands to the Federal conservation estate in a reasonably planned fashion?

And then the third, of course, is coverage: should we deal solely with Federal acquisition? What should be the future of the State grants program? Should it continue and at what level and in what form? And should the fund be expanded in different areas to deal with items outside the narrow field of land acquisition?

Should it deal with various aspects of operations and maintenance, which has been discussed at different times in the past?

So, we are trying to look at all three of those, and I must say that the mechanical concepts in S. 735, are being scrutinized internally at this time.

The CHAIRMAN. Thank you very much.

Mr. Secretary, I wish you would provide for the record a list of the Department's top priority acquisitions for the Park Service, for Fish and Wildlife Service, and for BLM. And you might give us about your top, at least your top 20 in that respect, with the amounts of money you think they would require, and if any of them are to be acquired over a period of time any comments you might have with respect to that.

[The information follows:]

U.S. FISH AND WILDLIFE SERVICE
APPROVED LAND AND WATER CONSERVATION FUND
NATIONAL PRIORITY LIST
July 23, 1987

NATL RANK	PROJECT	REGION	TARGET
1	LOWER RIO GRANDE NWR, TX	2	NSWH
2	MATAGORDA ISLAND NWR, TX	2	NSWH
3	ASH MEADOWS NWR, NV	1	Endangered Spp.
4	SAN FRANCISCO BAY, CA	1	NSWH
5	LESLIE CANYON, AZ	2	Endangered Spp.
6	LOWER SUWANNEE NWR, FL	4	NSWH
7	NATIONAL ELK REFUGE, WY	6	NSWH
8	ANIMAS NWR, NM	2	NSWH
9	***MCKINNEY NWR, CT	5	NSWH
10	ALLIGATOR RIVER, NC	4	Wetlands
11	J.N. "DING" DARLING, FL	4	NSWH
12	DRIFTLESS AREA NWR, IA	3	Endangered Spp.
13	TINICUM NEC, PA	5	NSWH
14	CHARLES M. RUSSELL, MT	6	NSWH
15	BLUNT-LIZ.T., CA	1	Endangered Spp.
16	GREAT SWAMP NWR, NJ	5	NSWH
17	SUNKHAZE MEADOWS NWR, ME	5	Wetlands
18	BLUNT-LIZ. M&F, CA	1	Endangered Spp.
19	TRUSTOM POND NWR, RI	5	NSWH
20	PATOKA RIVER NWR, IN	3	Wetlands
21	KLAMATH FOREST NWR, OR	1	Wetlands
22	GREAT DISMAL SWAMP, NC/VA	5	NSWH
23	MINNESOTA VALLEY NWR, MN	3	NSWH
24	TREMPEALEAU NWR, WI	3	Wetlands
25	OKLAHOMA BAT CAVES, OK	2	Endangered Spp.
26	TENSAS RIVER NWR, LA	4	NSWH
27	FOX RIVER NWR, WI	3	Wetlands
28	ATWRTRS PRAIRIE CHICKEN, TX	2	Endangered Spp.
29	KIRTLAND'S WARBLER, MI	3	Endangered Spp.
30	EASTERN SHORE OF VA, VA	5	NSWH
31	UPPER MISS. RIV. NWFR, MN	3	Wetlands
32	BAYOU SAUVAGE, LA	4	Wetlands
33	RAINWATER, NE	6	Wetlands
34	NATIONAL KEY DEER, FL	4	Endangered Spp.
35	CHICKASAW NWR, TN	4	Wetlands
36	KENAI RIVER FLATS, AK	7	Wetlands
37	CRYSTAL RIVER, FL	4	Endangered Spp.
38	STEIGERWALD LAKE, WA	1	NSWH
39	ST. VINCENT NWR, FL	4	NSWH
40	WERTHEIM NWR, NY	5	NSWH
41	MISS. SANDHILL CRANE, MS	4	Endangered Spp.
42	BON SECOUR NWR, AL	4	NSWH
43	SWAN RIVER NWR, MT	6	NSWH
44	LEE METCALF NWR, MT	6	NSWH
45	BOGUE CHITTO NWR, LA	4	NSWH
46	GREAT MEADOWS NWR, MA	5	Unassigned

*** Formerly Coastal Connecticut NWR, name changed by P.L. 100-38, May 13, 1987

NSWH = Nationally Significant Wildlife Habitat

NOTES: (1) All projects have approved Preliminary Project Proposals or other approved decision documents.
(2) This list supercedes the previous LWCF National Priority List dated June 10, 1987.

National Park Service
Land Acquisition Priorities

Area	Amount
Acquisition Management	$6,500,000
Deficiencies, Emergencies, Hardships	6,000,000
Inholdings	5,000,000
Appalachian NS Trail	14,000,000
Manassas NBP	2,000,000
Grant-Kohrs Ranch NHS	600,000
Alaska Parks	5,000,000
Olympic NP	3,000,000
Golden Gate NRA	4,000,000
Gulf Islands NS	800,000
Chattahoochee River NRA	7,000,000
Delaware Water Gap NRA	3,000,000
New River Gorge NR	5,000,000
John Day Fossil Beds NM	250,000
Cumberland Island NP	1,000,000
Cuyahoga Valley NRA	5,000,000
Voyageurs NP	4,000,000
Ebey's Landing N.Hist.Pres.	79,000
Antietam NB	1,000,000
Acadia NP	3,500,000
Total	$76,729,000

7/24/87

Bureau of Land Management
Priority L&WCF Projects

Project Name	Total Acres to be Acquired	First Year (Dollars)	Out-Year Dollars
1. King Range NCA, CA	940	1,000,000	1,000,000
2. Upper Missouri WSR, MT	2,200	500,000	600,000
3. Bizz Johnson Nat'l. Trail, CA	200	195,000	255,000
4. Steens Mtn. Rec. Area, OR	4,700	575,000	-0-
5. North Fork American River, CA	1,621	400,000	1,000,000
6. Wilderness Inholdings	Unknown	1,500,000	Unknown
7. Carrizo Plains, CA	165,000	1,000,000	36,000,000
8. Desert Tortoise Nat'l. Area, CA	7,140	500,000	571,000
9. Owyhee River, ID	836	352,000	-0-
10. Chuckwalla Bench ACEC, CA	12,560	100,000	1,200,000
11. Birds of Prey, ID	359	153,000	-0-
12. Chacoan Outliers	N/A	500,000	-0-
13. City of Rocks, ID	400	200,000	-0-
14. Acquisition Management	N/A	1,500,000	Unknown
Total Priority L&WCF Projects		$8,474,000	

NA = Not available

The CHAIRMAN. I might say, I would also like for Mr. Dunlop to provide the same information that is listed, your top priorities in the Agricultural Service.

Mr. DUNLOP. Yes, sir, we would be very pleased to try to do that. I probably should advise the Committee, though, that because the Administration over the past six or eight years has not asked for in its budget a land acquisition program, we really do not have a national priority list.

What we do when the Congress then appropriates money in these accounts, we take the accounts, break them down, and provide, make priorities that way. And that is what we would be prepared to provide to the Committee forthwith.

The CHAIRMAN. Well, whatever information or advice you have in that would be helpful.

Mr. DUNLOP. Yes indeed.

The CHAIRMAN. Senator Murkowski, we will hear from Secretary Dunlop in just a minute.

STATEMENT OF HON. FRANK H. MURKOWSKI, A U.S. SENATOR FROM THE STATE OF ALASKA

Senator MURKOWSKI. Thank you, Mr. Chairman. I am sorry, our luncheon extended a little longer today. We were debating the budget and, needless to say, we did not reach a conclusion.

I certainly appreciate the opportunity to hear the testimony for your bill, S. 735, to modify the Land and Water Conservation Fund. As I think you know, Mr. Chairman, I have some very grave concerns about the bill, but the concept of a fund specifically designated for wildlife habitat is certainly something that is needed and should be continued.

I support the theory behind the Land and Water Conservation Fund, to use revenues generated from non-renewable resources to acquire and protect renewable, pertinent resources.

In addition, I would agree that the Congressional failure to adequately appropriate money from time to time from the Land and Water Conservation Fund ought to be addressed by the Committee.

But I do not believe Senate Bill S. 735 establishes the proper formula for addressing that problem. Although this bill is generic in principle, it is my interpretation in practical reality that it will most likely apply only to the Arctic National Wildlife Refuge, ANWR in Alaska. And I intend to question the witnesses on that specifically, Mr. Chairman.

As a consequence, it seeks to use revenues to which the state of Alaska is legally and equitably entitled to pay for the acquisition of valuable lands for the benefit of all Americans.

Other refuges have oil and gas potential, but I think it is minimal compared to ANWR. And the Alaska Statehood Act specifically provided that revenues generated from the production of oil and gas on federal lands in Alaska be divided on a 90–10 state-federal distribution formula, and this was covered under the Mineral Leasing Act as well.

And why the 90–10? Well, because Alaska was an undeveloped state with a great need for revenues to be used so it was deemed most appropriate. There was a genuine consideration as to whether

or not we could in fact support statehood, and because the other states who relied on the reclamation fund were fearful about Alaska's inclusion in the fund, because of our large land mass and the unique demands.

Now times have changed. The 90–10 revenue sharing looks good to other states, like a windfall to Alaska. So proposals have arisen to change it.

The question that I must raise is, if we can so easily change Alaska's formula, why not change other sharing formulas as well? The reclamation fund could use an infusion of additional revenues. Why not reduce other states' share of federal revenues from federal leases to 25 percent and increase the reclamation fund accordingly?

Mr. Chairman, I think we both know how a proposal of that nature would fare. But the question remains, why treat Alaska differently on this issue than any other state? There seems to be a generally held perception that the 90–10 formula should be changed because Alaska no longer needs revenues.

I grant you that Alaska has certainly benefited from the oil development, but not at the expense of the federal government and not by virtue of 90–10 revenue sharing. Prudhoe Bay is on state lands and is therefore not subject to federal revenue-sharing formulas.

Has Alaska used the profits from oil development wisely? I believe it has, as do Alaskans. Mr. Chairman, we built much-needed schools in our villages, hospitals, roads, bridges, airports—many things that we did not have and many things that other states take for granted and have had for a long, long time.

We have also created a state savings account, the permanent fund, as a way of preserving some of the revenues from development of our resources, some of the revenues, Mr. Chairman, from non-renewable resources such as oil.

But that does not mean that Alaska no longer has need for revenue. Mr. Chairman, you have heard me say before that Alaska is unique. You have been to our state and you are well aware of that.

How many other states have more than 227 million acres of federal land within their borders, 38,000 miles of coastline? How many other states have 48 million acres of national parks, 53 million acres of national wildlife refuge, and 56 million acres of designated wilderness?

How many other states are there where the only means of access to over 95 percent of its communities is strictly by air or water, no other means available, no surface transportation?

In how many other states does a gallon of milk cost $4.50 in a village because of freight costs?

Maybe it is appropriate, in light of changed circumstances in this state, to consider revising the 90–10 formula. But any such proposal should be developed with Alaskan consultation and concurrence, not in a take it or leave it basis.

In conclusion, while I support your efforts, Mr. Chairman, to address the Land and Water Conservation Fund problems and I pledge my support to work with you to develop alternative situations, I cannot support this bill at this time, which proposes to sup-

port the fund pretty much exclusively as far as my identification is concerned at the expense of my state of Alaska.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Senator Murkowski.

Mr. Dunlop.

STATEMENT OF GEORGE S. DUNLOP, ASSISTANT SECRETARY, DEPARTMENT OF AGRICULTURE

Mr. DUNLOP. Mr. Chairman, I have a prepared statement which I might submit for the record, and then I might just draw three fibers from the fabric, if I may, to highlight some of the points that we have.

The first point I would make is that the Department of Agriculture supports the concept of the Land and Water Conservation Fund, as past accomplishments have provided for the acquisition of very valuable recreation property. In fact, the Forest Service component over the years has been about 22 percent of the total federal program.

The second point I would make, Mr. Chairman, is that, because of the already very large current federal estate, the past accomplishments we have made as well as the federal deficit and current demands on the federal budget, we believe that a continued large land acquisition program is really not necessary.

Land exchanges and other types of activities in which we can engage do exist under current authority that allows the Forest Service to make necessary land ownership adjustments. And I might point out, for instance, that in 1986 133,000 acres of non-federal lands were exchanged, for 101,000 acres of national forest system lands, at an administrative cost of only $5.2 million.

That same year we acquired approximately 43,000 acres for $31 million. Thus, in 1986 the Forest Service acquired three times the amount of land by exchange than by purchase, and for only one-sixth of the cost.

Of course, we recognize that purchase is absolutely necessary in many instances and exchange does not always work. But we have proposed to Congress that we continue to work together with the management agencies to simplify and expedite the types of things that we can do under existing authority.

It would be my hope and our hope at the Department of Agriculture that as we work on these land acquisition matters that would be included under this account, perhaps this process could be moved along a little if we established some hierarchical order to the process once we have decided upon the particular tracts.

In other words, give precedence to, let us say, those tracts that involve some element of exchange or some element of donation or perhaps an element of acquisition of partial interest, maybe reduction in the acreage and that kind of thing.

We are very, very pleased at the feedback we have had from the Committee staff, both here and the other relevant Committees, to look at some way in which the Administration would be able to come up with a land acquisition program that would be the kind of thing that Congress could work with.

As you know, we have come up with a zero amount every year, and that frankly does not give you the input you need. And I am looking for ways to try to work that out.

And so the third point I would make in that regard is that at this stage of the game, this stage of consideration, the Department of Agriculture could not recommend the enactment of a bill as it is, nor oppose the enactment as it is.

We are very eager to work with you. As Assistant Secretary Horn just said, we have got a very, very active inter-agency, inter-Departmental effort under way. We feel an obligation as an Administration to come to this Committee and come to you and say, here is our very best thinking on this and we would like to have those thoughts considered by the Committee.

Unfortunately, we are not ready today to do that. But we should be after the August recess.

[The prepared statement of Mr. Dunlop follows:]

STATEMENT OF
GEORGE S. DUNLOP, ASSISTANT SECRETARY
UNITED STATES DEPARTMENT OF AGRICULTURE

before the
Subcommittee on Public Lands, National Parks, and Forests
Committee on Energy and Natural Resources
United States Senate

Concerning S. 735

JULY 14, 1987

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

Thank you for the opportunity to present our views on S. 735, a bill "To amend the Land and Water Conservation Fund Act of 1965, and for other purposes."

The Department of Agriculture recognizes the past accomplishments and valuable contributions of the Land and Water Conservation Fund (L&WCF). Since the L&WCF program began in 1965, approximately $3.5 billion have been appropriated for Federal land acquisitions. The Forest Service expenditures exceed $800 million or approximately 22 percent of the total Federal program. Nearly 1.2 million acres have been acquired within the National Forest System. We support the concept of the Land and Water Conservation Fund, as past accomplishments have provided for the acquisition of valuable recreation properties.

S. 735 would create a separate fund, to be available without further appropriation, consisting of two sources: (1) $160 million per annum, to be derived from the authorized but unappropriated balance of the L&WCF fund; plus (2) 25 percent of all revenues received from competitive bids, sales, bonuses, royalties, rents, fees, interest charges, or other income derived from the leasing of oil and gas resources within units of the National Wildlife Refuge

System. The appropriations committees would be directed to appropriate the fund in accordance with a priority list prepared by the Directors of the Bureau of Land Management, National Park Service, Fish and Wildlife Service, and Chief of the Forest Service. If the appropriations committees fail to allocate funds from this special account, the Secretary of the Treasury would be authorized and directed to make such funds available to the land managing agencies in accordance with the following formula:

40 percent to the National Park Service;

40 percent to the Fish and Wildlife Service;

15 percent to the Forest Service; and

5 percent to the Bureau of Land Management.

In consideration of the current Federal estate, past accomplishments, and the Federal deficit, we believe a continued large land acquisition program is not necessary. Other authorizations exist that allow the Forest Service to make necessary landownership adjustments. Recent budget requests for L&WCF were directed only towards providing administrative funds necessary for the completion of cases funded from previous year appropriations and for pursuing land exchange cases that qualify under L&WCF criteria. Land exchanges were planned to acquire other high priority tracts. In 1986, 133,000 acres of non-Federal land were exchanged for 101,614 acres of National Forest System lands -- at an administrative cost of $5.2 million. In that same year, 43,165 acres were purchased for $31 million. Thus, in 1986, the Forest Service acquired three times more land by exchange than by purchase for one-sixth the cost. We recognize that purchase may be the only viable means of acquiring certain tracts. However, we are emphasizing land exchanges by offering non-Federal landowners the opportunity to pursue an exchange as an alternative to Federal purchase of their land.

We propose that the Congress continue to work with the land management agencies to simplify and expedite the donation and exchange processes to acquire high priority lands. Land acquisition, either by purchase or exchange, is a long-term process that requires extensive planning, assessment of Federal needs, economic analysis, and prioritization. Then, consideration must be given to the most cost effective method of landownership adjustment. This process includes the following options: (1) donation of land; (2) land exchange; (3) acquisition of partial interest; (4) reduction in acreage; and, if absolutely necessary, (5) cash purchase. We will continue to emphasize land exchange as the primary means of landownership adjustment for the Forest Service and as a more desirable alternative to purchase.

We have no position on S. 735 at this time. This bill addresses only a few of the many questions, issues, and concerns relating to how the entire L&WCF program should be funded and administered. An active interagency process is ongoing to develop a comprehensive Administration proposal. We expect to provide this information, with recommendations, to you shortly.

This concludes my testimony. We look forward to working with the Subcommittee as you consider amendments to L&WCF and other issues dealing with land acquisition processes that will improve ownership patterns on the National Forests and better provide for public needs. I will be happy to answer your questions or provide any additional information you may desire.

The CHAIRMAN. Thank you very much for that, Secretary Dunlop.

I want to urge you and Secretary Horn to work with us on this, because we want to give you a maximum of flexibility. I mean, with respect to all of these acquisitions, we want the Department, all Departments, to be able to get the best targets of opportunity. And you have got to have flexibility to do that.

As far as I am concerned, I would like to see you acquire the least amount necessary to achieve the job. Sometimes that might be an easement of use, or a site or something less than fee acquisitions, sometimes something exchanged—all of these different things for which you need flexibility.

Now, at the same time the fundamental tenet of the bill is to make this an automatic appropriation so that we do not get caught up in somebody's budget each year, assuming we do open ANWR and assuming there is oil and gas there, that we will not get caught up in the budget crunch every year and have them taking away this.

Because, as you know, it is a whole lot easier to defeat a bill. So if you can just defeat, defeat with 41 votes somebody's grab of parks and agricultural lands, then it will be automatic.

So we have to reconcile those two views, the flexibility that you need and the automaticity, if that is a word, on the other hand. And so I hope you will be thinking about that soon.

I hope we can make this bill happen fairly fast. Our friends in the environmental community up to this point are opposed to the bill, not because they do not recognize there are great needs for parks, but because they do not want, if I can judge their motives, they do not want any of their fingerprints to be put on the opening up of ANWR.

And all of the words and repetitions that I could make that the two issues are unrelated have thus far been not of assurance to them. But I hope that their opposition will be more formal than intense, because I would like to make this thing happen and soon.

You know, it is one thing to make a formal opposition and it is another thing to try to mobilize and energize all the troops. If they do not do the latter, then I hope we can make this bill happen pretty soon and then forget about this bill.

If we never open up ANWR, it has not done any harm at all. If this Congress does not, but some other Congress does, then that money will be there for them.

Mr. DUNLOP. Well, you know, Mr. Chairman, I might give you encouragement in that regard, because in the past year that I have had the occasion to serve in the Administration—as you may know, I served for a number of years up here on the Hill, twelve years as a Committee staff director—I can attest to the fact that the ability of the Congress and the Administration to work together, to work out a sensible, predictable policy in this is a very, very needed thing.

Both the Congress needs it and the Administration needs it. The public needs it. So your effort in this regard is something that we pledge sincere cooperation toward, just because it is the right thing to do and it will allow planning to go ahead and the other issues

then to be resolved, rather than the constant frustration that we face as we deal every year with this complicated question.

So you are right on target from our point of view at the Department, and we are your willing and obedient servants, as they used to say.

The CHAIRMAN. Well, I appreciate that very much, Secretary Dunlop. And if both of you will give us your best advice on this mechanism and soon, because I would like to bring it up very, very fast, I mean, giving everybody a chance to have his say, but I would like to make it happen fast and I hope we could, on the consent calendar.

This would not be the first bill that I would hope that could be on the consent calendar that ran into opposition later on, but I would hope it could be done in that way.

Senator Murkowski.

Senator MURKOWSKI. Thank you, Mr. Chairman.

It is my understanding that in the Land and Water Conservation Fund there is about $5 billion currently. About $900 million is coming in annually, and yet we are expending about $160 million a year.

Mr. HORN. Well, Mr. Chairman, the way it works is that the current fund is really like a credit line from the bank, and the credit line is up to $900 million annually. Yes, there is an accrued balance, so to speak, of $5.2 to $5.3 billion. But there are no actual dollars in an account, unused, any place.

In other words, there are no unused, unappropriated dollars sitting there on the shelf for Congress to take off. All of those dollars have been expended by Congress and the Executive Branch for some other activity.

So it is basically unused authority that is still out there.

Senator MURKOWSKI. Well, you are expending out of the authority $160 million?

Mr. HORN. That is because those have been appropriated dollars pursuant to an act of Congress.

Senator MURKOWSKI. So what you are saying is the appropriators will not give you the appropriation for any more, even though you have the authority?

Mr. HORN. We have not asked. As a matter of fact, we have been asking for rather limited amounts, and Congress has been giving us more than we have asked for.

Senator MURKOWSKI. What would change on this if S. 735 were to become law?

Mr. HORN. Well, the way we read it, I think as the Chairman noted earlier, is that we would end up with a far more automatic program, that a substantial sum of money would be made available, not subject to appropriation, on a more-or-less automatic basis for land acquisition purposes.

Senator MURKOWSKI. It is currently my understanding that about $2.5 million are coming in from leases on refuges?

Mr. HORN. It is not an enormous sum of dollars, and I would have to get for the record the exact number. But it is somewhere, a de minimis sum, when you compare it to OCS revenues and some of the other elements that are earmarked for LWCF.

[The information follows:]

Oil and gas receipts for refuges in the lower-48 States

Fiscal year 1986 acquired lands:	
Hatchie NWR, TN	$1,095.50
Delta NWR, LA	1,359,858.90
Sabine NWR, LA	18,744.13
Medicine Lake NWR, MT	324,409.60
Des Lacs NWR, ND	3,497.52
J. Clark Salyer NWR, ND	122,691.36
Upper Souris NWR, ND	61,347.70
Quivira NWR, KS	3,018.21
Pathfinder, CO	40.00
Total	1,894,702.82

Senator MURKOWSKI. Can you identify other wildlife refuges other than ANWR that have a significant oil and gas or mineral potential?

Mr. HORN. Basically, most of the refuges that have potential where that mineral estate is retained by the Federal Government are probably in the State of Alaska. Most places where we have oil and gas activity in units of the refuge system—and there are about 40 to 50 such units out of the 430-plus units of the system overall—are where we acquired the surface only and private ownership retained the subsurface. Then we have worked out arrangements to let them continue to extract their private minerals while we own the surface estate and manage that for wildlife protection purposes.

In those cases, of course, there are no revenues being generated for the Federal Government, and no disposition or deposit in any type of a fund. So the only unit where the Administration is proposing any oil and gas leasing activity on our own is in the coastal plain portion of ANWR. In the other 430 units, we are not proposing any oil and gas activity on our own.

Senator MURKOWSKI. So obviously, this would trigger in ANWR if indeed it did become law more significantly than any other identifiable refuge?

Mr. HORN. Yes, sir. I think the 1002 report indicates that we are looking at prospective bonus revenues in the $2 to $3 billion range, potentially. Of course, I do not think we have another unit of the system that is anywhere close to that.

Very clearly, that is the most outstanding frontier oil and gas area we have been able to identify, and as a consequence, it would generate the lion's share of the dollars.

Senator MURKOWSKI. My last question has to do with the process of identifying desirable areas to be added to our treasurehouse of unique and pristine wilderness areas, conservation areas, and so forth.

Do you, as a Department of Interior, formally sit down and identify those acquisitions that you would like to obtain? And is it pretty much limited under the LWCF acquisition process?

Mr. HORN. Mr. Chairman, when I took office one of the things that perplexed me was that we did not have a system in place to identify exactly what our priorities were. Both the National Park Service and the Fish and Wildlife Service have worked over the past years to generate an objective resource priority program with a series of specified criteria built into it. We of course are in the position to provide that outlines to the Committees. It shows if we have *x* dollars, here is what we would acquire.

Senator MURKOWSKI. So you do this internally? You identify internally?

Mr. HORN. We have generated that internally as our own initiative.

Senator MURKOWSKI. Okay. In this process, various environmental groups perhaps come in and make suggestions to you. Do you take their recommendations and consider them?

Mr. HORN. It is not any type of a public process right now. It is being conducted by the resource professionals within the agencies, pursuant to these objective criteria that we established in advance.

Senator MURKOWSKI. I see. Is there any reason that you do not respond to environmental groups that may have suggestions that you acquire specific lands for a purpose that corresponds with their particular cause or interest?

Mr. HORN. I think we do, but I think the system is essentially ad hoc. We have people come to us with different proposals and different ideas on areas to acquire. We have our people evaluate and review those proposals.

If, of course, the resource professionals are duly persuaded, that can be incorporated into our priority list, if indeed the attributes of that particular parcel of land satisfy the criteria that we have established.

Senator MURKOWSKI. Can you tell us, in the case of Alaska, if there are currently any areas that have been identified by various environmental groups or special interest groups that they would like to see become part of the Federal withdrawals?

Mr. HORN. Right now we have nothing per se on the resource priority list because, as you are well aware, we can obtain lands in Alaska only on a willing-seller basis. We cannot acquire through condemnation, which is authority we have in the Lower 48.

We obviously have intense interest in acquiring some of the key wildlife parcels. There are approximately 10 million acres of native inholdings within the wildlife refuge system in Alaska, and some of those lands are of extremely high value. We of course are interested in obtaining those lands.

Senator MURKOWSKI. But is it because Alaska does not belong to the Land and Water Conservation Fund and participate that you cannot use that? I thought the funds could be used outside the individual state if it was deemed in the interest of the government?

Mr. HORN. The funds can be used. We have not come up with any particular small parcels that are of sufficient priority to buy.

Obviously, one of the problems is that the extent of the inholdings in Alaska is so large that we could spend the entire balance if we were to go after some of those inholdings. We are talking about hundreds of thousands of acres of land, of inholdings within the refuges, whereas in the Lower 48 we are sometimes talking about picking up inholdings measured in tens of acres.

Obviously, if we started committing our limited cash resources to the Alaska inholdings, we would break the bank.

Senator MURKOWSKI. Well, is it your interpretation that the application of this legislation, S. 735, as you have already testified that the identifiable revenue would come from refuges in Alaska, that it would necessarily mandate that it be expended in Alaska?

Or would it purport that it could be expended anywhere?

Mr. HORN. My understanding is it could be expended anywhere pursuant to these land acquisition priority lists. Indeed, that is one of the features of S. 735 that we are very supportive of, the idea of having the land acquisition program being driven by these resource-based priority systems.

Senator MURKOWSKI. You said that there was not enough money from the LWCF currently in appropriations to acquire some of the identifiable lands, ideal lands, in Alaska. So Alaska would have no assurance, then, even if S. 735 passed, that identifiable lands in Alaska that were desirous of going in the system would necessary go in.

It may be other refuges, so we have complete exposure and no assurance that it is going to be beneficial to holdings in Alaska, and that it would be beneficial to the federal government managing. Is that correct?

Mr. HORN. I think it would depend upon how those particular inholdings ranked on the overall land acquisition priority.

Senator MURKOWSKI. Nationally, as opposed to within our state?

Mr. HORN. Yes.

Senator MURKOWSKI. And nobody, including environmental groups, is banging down your door, proposing that things in our state happen, in other words that acquisitions be acquired on identifiable land that could be added to a wilderness area, a wildlife area, and so forth?

Mr. HORN. We have had three or four relatively small cash acquisitions approved by Congress during the period I have been at the Department: the Gagnon property in Wrangell-St. Elias Park, and some appropriations for purchases at Tazumin Lake Basin, an inholding in Lake Clark National Park.

Most of our acquisition of inholdings in Alaska in parks and refuges has been by exchange since the Alaska Lands Act passed, and in combination of exchanges, arrangements with the state, unrelinquished donations, and such. We have been able to add over a million acres to the parks and refuges in the state through a series of transactions with the use of the exchange authority.

Senator MURKOWSKI. Well, Mr. Chairman, I kind of feel like the bride that has been put up by her father without much to say about the ultimate disposition of her future, because it appears to me our state is in the unique position here of being afforded, indeed, under the legislation the opportunity to fund, but not have the assurance that the acquisitions would necessarily take place.

And that concerns me greatly. Since we do not seem to have had a great deal of evidence exbibited by various groups that want to see specific exchanges take place in Alaska, I guess I have a hard time interpreting the need of this legislation as being beneficial to our particular state.

And I certainly recognize that there are 49 other states as well to be considered, but speaking from a strictly singular point of view, it does seem that it is pinpointed from a revenue generation at our state.

I want to thank you for the time you have allotted me to make our particular point of view heard.

The CHAIRMAN. Senator Bradley.

Senator BRADLEY. Thank you very much, Mr. Chairman.

I would like to ask Mr. Horn, what are the three or four places that you would see the greatest revenues being derived from the decision to allow 25 percent of revenues of future oil and gas leasing in national wildlife refuges to go to this special fund?

Mr. HORN. Very clearly, the only unit of the refuge system that would generate any appreciable oil and gas revenues would be the coastal plain portion of the Arctic Wildlife Refuge if Congress chooses to open that area up.

Senator BRADLEY. You cannot conceive of any other place where there might be any revenues?

Mr. HORN. There is some appreciable, significant—pick the term one wishes—potential within some of the other refuge units in Alaska, where Congress, through section 1009 of the Alaska Lands Act, has specifically authorized the creation of what is called the North Slope leasing program.

Those areas have some potential, but right now it is rather limited. Depending upon what the geologists might find, that potential could increase. But right now I do not think anybody could predict any appreciable or significant revenues from leasing any other non-ANWR refuges in Alaska for at least the next ten years.

Senator BRADLEY. Could you imagine any in the lower 48?

Mr. HORN. As I indicated earlier, for most of the refuges in the Lower 48 where we have acquired sub-surface estate along with the surface estate, we have no intention to offer leases.

We have the authority to do so under the Refuge Administration Act pursuant to a compatibility determination, but it has been the Secretary's basic policy that we are not interested in leasing or pursuing oil and gas leasing in any other units of the wildlife refuge system in the Lower 48.

Senator BRADLEY. But in terms of oil and gas potential, what would be three or four in the Lower 48 that would have significant oil and gas potential?

Mr. HORN. I would have to check with the geologists. I think that there are some with some potential. It would be difficult to say that there are any in the Lower 48 that have significant potential where the Federal Government has retained the sub-surface estate.

There are a number of refuges, where private owners have retained the sub-surface, that have significant oil and gas. I think of the Atchafalaya unit we have recently established in Louisiana with the cooperation of the Chairman.

But there, of course, the potential has been retained by the private owner. That is generally the case where you have appreciable oil and gas in the Lower 48 areas.

Senator BRADLEY. Any other places other than at Atchafalaya?

Mr. HORN. No.

Senator BRADLEY. Whether the government retains the rights, sub-surface rights, or not, at least the area is under the management as a wildlife refuge.

Mr. HORN. For example, in Atchafalaya we have a special arrangement with the sub-surface owner where we negotiated a contract, and that contract specifies how he will operate on that land to ensure protection for surface values.

I can provide for the record the list of other units of the refuge system where our geologist might see some potential for oil and gas.

But as I indicated, the Secretary's present policy is not to pursue leasing of any of those refuge units in the lower 48.

The CHAIRMAN. If the Senator would yield, there is some production right now on some refuges in Louisiana.

Senator BRADLEY. I have seen them, and I am just trying to, if I can, get a sense of what the universe is here. So if you have looked at that document, could you remember any more, or do you want to just provide it for the record?

Mr. HORN. I think I had better provide it for the record. I know that there is a list of 40 or 50 units with some potential.

[The information follows:]

This information was prepared in early 1983 while leasing on refuges was being considered. The Service did not complete the identification of refuges overlapped by known geologic structures prior to the no-lease policy.

Known Geologic Structures Overlapping Fish and Wildlife Service Refuges

Alaska Region

State	County	National Wildlife Refuge	KGS Name	KGS Overlap (Description)
Alaska		Kenai	Beaver Creek Field	Entirely within refuge (T.6-7N., R.10W)
Alaska		Kenai	Birch Hill Unit	Entirely within refuge (T.9N., R.8-9W)
Alaska		Kenai	Swanson River-Soldotna Creek	Entirely within refuge (T.7-8N., R.9W)
Alaska		Kenai	West Fork Unit	Entirely within refuge (T.6N., R.9W)

Western Region

California		Sutter	Tisdale-Sutter City	Entirely within refuge (T.14-15N, R.1-2E)
California		Wister Waterfowl Management Area	Imperial	(T.11S, 13E, all sec.1, and N 1/2 sec.12)
California		Hopper Mountain	Topatopa Fourfork	[T.5N, R.19W, secs. 1-8 (not standard sections)]
California		Seal Beach	Seal Beach	[definite overlap (T.5S, R.11W)]
Nevada	Nye	Railroad Valley	Eagle Springs Field	(T.8-9N, R.57E, sec.34, SE 1/4)
Nevada	Nye	Railroad Valley	Trap Spring Field	[T.9N, 56E (only common boundary--may be future expansion of KGS)]

Known Geologic Structures Overlapping Fish and Wildlife Service Refuges

South Central Region

State	County	National Wildlife Refuge	KGS Name	Overlap (Description)
New Mexico		Bitter Lake	(KGS's)	
Oklahoma	Alfalfa	Salt Plains	(KGS's)	
Oklahoma	Johnston & Marshall	Tishomingo	(KGS)	
Oklahoma	Custer	Washita	Foss Reservoir	Refuge is entirely within KGS (T.13 & 14N., R.19-20W.)
		(Sequoia--under review to establish a KGS in portion of refuge.)		
		(Optima--under review to establish a KGS in portion of refuge.)		
		(Wichita--closest oil and gas production 2 miles from refuge.)		
Texas	Aransas	Aransas	KGS	KGS overlaps approximate southern third of refuge.
	Calhoun			
	Refugio			
Texas	Grayson	Hagerman	(KGS)	KGS is entirely within refuge
Texas	Hildago	Santa Anna Game Sanctuary	Los Toritos Field	KGS overlaps west edge of sanctuary

(See attached list of KGS's by counties in Arkansas and Louisiana.)

Known Geologic Structures Overlapping Fish and Wildlife Service Refuges

Central Region

State	County	National Wildlife Refuge	KGS Name	Overlap (Description)
Kansas		Quivira	Quivira	KGS overlaps about northern 2/3 of refuge.
Kansas		Flint Hills	Ottumwa, Lakeshore Thomsen & unnamed	The three KGS's overlap scattered portions of refuge.
Utah		Ouray	Brennan Bottom	80-acre portion of refuge (T.7S., R.21E.) is within Brennen Bottom Field KGS. Main portion of refuge (1770 ac.) appears to be outside KGS boundaries.

Known Geologic Structures Overlapping Fish and Wildlife Service Refuges

North Central Region

State	Wildlife Refuge	KGS	Description of Overlap
Wyoming	Seedskade	Storm Shelter	T.23N., R.111W., 6th P.M., WY sec.16, SE 1/4 SW 1/4 and S 1/2 SE 1/4; sec.21, N 1/2 NE 1/4 and NE 1/4 NW 1/4.
Montana	Bowdoin	Bowdoin	T.31N., R32E., P.M., MT sec. 28, SW 1/4.
Montana	Hewitt Lake	Bowdoin	T.32N., R32E., P.M., MT sec.7, SE 1/4; Sec. 8, S 1/2; sec.9, W 1/2 SW 1/4; sec.16, NW 1/4; sec.17, N 1/2; sec.18.
North Dakota	J. Clark Salyer	Kane	T.162N., R.79W., 5th P.M., ND sec.27, NE 1/4 SE 1/4; sec.34, E 1/2 NE 1/4.
North Dakota	J. Clark Salyer	Newburg-South West Hope	T.161N., R.79W., 5th P.M., ND sec.3, W 1/2 SE 1/4; sec.10, NE 1/4 and NE 1/4 SE 1/4; sec.11, W 1/2 W 1/2, E 1/2 SW 1/4, and SW 1/4 SE 1/4; sec.14, W 1/2 NE 1/4, NW 1/4, N 1/2 SW 1/4 and NW 1/4 SE 1/4. T.162N., R.79W., P.M., MT sec.17, SW 1/4.
North Dakota	J. Clark Salyer	Starbuck	T.161N., R78W., 5th P.M., ND sec.19, W 1/2 SE 1/4; sec.30, E 1/2.
North Dakota	J. Clark Salyer	Starbuck Southwest	T.160N., R79W., 5th P.M., ND sec.1, lots 3 & 4, S 1/2 NW 1/4; SW 1/4, and W 1/2 SE 1/4; sec.2, lots 1 & 2, S 1/2 NE 1/4; and SE 1/4; sec.12, 1/2 NE 1/4, NW 1/4, N 1/2 SW 1/4, and NW 1/4 SE 1/4. T.161N., R.79W., 5th P.M., ND sec.31, S 1/2 SE 1/4.
North Dakota	Upper Souris	Tolley	T.161N., R.86W., 5th P.M., ND sec.3, E 1/2 SW 1/4 and SE 1/4; sec.10, NE 1/4 and N 1/2 SE 1/4.
North Dakota	Upper Souris	Lake Darling	T.159N., R.85W., 5th P.M., ND sec.35, E 1/2 SE 1/4; sec.36, SW 1/4.
North Dakota	Upper Souris	Unnamed	T.159N., R.85W., 5th P.M., ND sec. 22, NE 1/4.

KNOWN GEOLOGIC STRUCTURE'S

ARKANSAS (Counties)

County	Number of KGS's
Franklin	12
Crawford	4
Logan	5
Sebastian	5
Yell	1
Johnson	3
Pope	3
Conway	1
Faulkuer	1
VanBuren	1
Cleburne	1
Miller	1
Quachita	1
	39

Total Acres
1/1/83
362,762

LOUISIANA (Counties)

Parrish	
E. Baton Rouge	1
St. Charles	1
Jefferson	1
LaFourche	6
Terreboune	1
Morehouse	2
Richland	1
Caldwell	5
Quachita	2
Union	1
Lincoln	1
Jackson	1
Bienville	4
Claiborne	6
Webster	4
Bossier	4
Caddo	6
DeSoto	5
Red River	1
Natchitoches	2
Winn	3
Catahoula	1
LaSalle	3
Grant	2
Cameron	3
Jefferson Davis	2
Vermillion	4
Lafayette	1
St. Martin	3
Iberia	1
St. Mary	4
Iberville	2
Pointe Coupee	2
Plaquemines	8
	94

Total acres
1/1/83
857,761

Senator BRADLEY. Would you provide some sense of the potential in each of those.

Mr. HORN. Yes, sir.

Senator BRADLEY. Let me ask you, how much money was spent for land acquisition in the last year?

Mr. HORN. The aggregate appropriation was approximately $160 million, parceled out among the National Park Service, the Fish and Wildlife Service, and the Forest Service.

Senator BRADLEY. And this is for new acquisition?

Mr. HORN. Well, it is basically acquisition of inholdings, and in some cases new areas. The Fish and Wildlife Service frequently acquires new areas that have been added to the system. The Park Service focuses on inholdings.

Senator BRADLEY. But they were only inholdings within the existing wildlife refuges or parks?

Mr. HORN. No, the Park Service, at least in my area, focuses on buying lands within Congressionally authorized boundaries. The Fish and Wildlife Service authority is somewhat different. It can identify parcels it deems to be important.

Once those are acquired, we have the administrative authority to deem those acquired lands a unit of the wildlife refuge system.

Senator BRADLEY. But when it says new land acquisitions, do you interpret that to mean inholdings within existing parks and refuge areas, or do you interpret that to mean adding new parks?

There is a long list—as you are aware, there is a long list of things that have been authorized, but never purchased.

Mr. HORN. Most are inholdings.

Senator BRADLEY. Well, in terms of, would you view this as revenues that could be used for something other than inholdings?

Mr. HORN. Well, as I said, with the National Park Service, we are constrained to purchase lands that are inside Congressionally authorized boundaries. The only place that we can acquire land beyond the boundaries is for the Fish and Wildlife Service, and generally there we pick up lands that are important for migratory waterfowl with migratory bird funds, or we purchase lands that are important for endangered species with the Land and Water Conservation Fund.

Then, after we have acquired *x* acres, we administratively designate those lands as part of the refuge system. So, I would say that our park acquisitions are inholdings-driven; our refuge acquisitions are partially inholdings, partially for migratory waterfowl, and partially for endangered species.

Senator BRADLEY. Let us say that I introduced a bill to declare Montgomery County a national park. Would the money be available to purchase any lands in this newly authorized park?

Mr. HORN. Not at this time. As a matter of fact, one of the issues that we have addressed in the past is that when Congress sets these units up, we have expressed concern about making sure that simultaneously we identify sources of revenue or means of acquiring the land to be added to these units of the system.

Senator BRADLEY. So it is your view of the legislation that none of the money could be spent to purchase land in new elements of the parks system?

Mr. HORN. No, if Congress authorizes a new unit of the parks system and draws a dotted line on the map, we would then have the authorization to expend funds generated by this mechanism to acquire the lands inside that Congressionally authorized boundary.

Senator BRADLEY. Thank you very much.

The CHAIRMAN. Senator Wallop.

Senator WALLOP. Mr. Chairman, first let me ask that a statement that I have in general support, expressing some reservations on behalf of the Western Governors, be inserted in the record.

[The prepared statement of Senator Wallop follows:]

Statement by Senator Malcolm Wallop, a Senator from Wyoming

Before the Public Lands, National Parks and Forests Subcommittee

Hearing on S. 735, a bill to amend the Land and Water Conservation Fund Act of 1965, and for other purposes

Good afternoon. Mr. Chairman, I shared with you, as a co-member of the President's Commission on Americans Outdoors, the concerns which the Commission faced in providing funding for the recommendations of the Commission. As you know, I declined to support the recommendation for a funding not subject to the appropriation or budget realities of our time.

Your bill provides a minimum base of $160 million annually to be spent without further appropriation and would have the potential of added millions of dollars should your bill be enacted, and leasing and production occurs in ANWR.

Under current law the prospective mineral leasing receipts from ANWR would not be distributed to the Reclamation Fund. The State of Alaska currently receives 90 percent of mineral leasing revenues; 10 percent goes to the Treasury.

The State of Alaska has concerns with possible changes in that ratio. Leasing revenues from units of the National Wildlife Refuge System established from the public domain are credited in accordance with the provisions of the Mineral Leasing Act (30 U.S.C. 191) 50 percent to the state in which the refuge is located and 50 percent to the U.S. The 50 percent federal portion is further divided with 40 percent going to the Reclamation Fund and 10 percent to Treasury.

The Reclamation Act of June 17, 1902 (32 Stat. 388) which established reclamation of the arid and semiarid lands of the West as a federal activity, included the provision that financing of the Federal undertaking should be accomplished through the Reclamation Fund, a special fund to be established within the Treasury of the

United States. The fund was duly established and supported in the beginning by proceeds from sales of public lands of the United States. It was later augmented by a percentage of the royalties from oil and other mineral leases on lands of the United States, collections from the projects, and from other sources.

Although not a lot of money accrues to the Reclamation Fund from mineral leasing on units of the National Wildlife Refuge System established from the public domain, I have several reservations about the precedent established. The Western Governors have expressed some of the same concerns and the State of Alaska has major heartburn.

Let's assume that Congress does establish a permanent appropriation as contemplated in S. 735. I would argue for a different distribution formula which would have a state portion and perhaps a development portion for the federal side as contemplated by the drafters of the original Land and Water Conservation Fund Act. But that is all hypothetical.

My understanding is that the Budget Committee is objecting to the formula and permanent appropriation authority in the Park Fee bill (H.R. 1320 as reported). This is the glue that holds the fee issue together. Without those funds going to the areas as decided by the Committee, I'm not sure the effort is worth it. The same applies to S. 735.

The distribution of the mineral royalties and receipts is a well established precept with equity. We must be very careful in readjustments.

Senator WALLOP. I want to explore something here, because I think it is a little alarming. I do not think this in any way constrains itself to the acquisition of just new lands.

Senator BRADLEY. No, I was not saying it constrains itself to just the acquisition. I was saying, would it be permissible under the Act to acquire new lands. I was not saying, are you confined to that.

Senator WALLOP. Well, I do not think in either dimension that it says yes or no.

Senator BRADLEY. That is why I was asking him what his interpretation is.

Senator WALLOP. The problem is, and I want to examine just one thing, the view of the Department on the recent court case in California, and whether it has implications to you on the huge backlog of authorized but unacquired and unfunded lands in the systems of the national parks, the national wildlife refuge system, or scenic areas, or recreation areas, or all the other things that we authorize here?

Is it the view of the Department that the case has a potential impact?

Mr. HORN. It has raised substantial concerns, and I would say that it is just one more concern that has been added to a growing list.

When we look at acquisitions, for example, we have found that we end up in condemnations, that we end up spending about 150 percent of our appraised price if we go through condemnation. If we are forced to the point where we have to file a declaration of taking, we are losing awards and they are generally in the vicinity of 200 percent of our appraised value.

I think most of the members of the Committee are aware of the adverse ruling we had in the Redwoods case that now puts our liability for completing that unit of the park system at over a billion dollars.

We add those up, coupled with the recent Supreme Court case, and I think that the level of exposure that we are facing on inholdings is growing. Of course, we have been stuck in the box of, on the one hand, trying to deal with the budgetary constraints and, on the other hand, trying to acquire some of these needed lands that are important for wildlife or to minimize takings exposure.

Hence, that is why we have been so active in the land exchange business, or at least trying to be active.

Senator WALLOP. Well, I am all for that, having worked so hard to get there. You have heard me express my anxiety as to what is going to happen with Congress' huge appetite for authorizing, having no stomach at all for appropriating.

I mean, we will authorize anything and fight when it comes to authorizing an area, but when it comes down to paying for it, we just don't do it. There is no real passionate pursuit of providing funding from any corner.

People will say from time to time that somebody ought to do something about this or that, but we have exercised no restraint at all. And that is one reason why I am in general support of this bill and hope that, while nothing prohibits it from new acquisitions, I hope that our acquisitions of newly authorized—I hope that the

Congress can find it in itself to restrain its authorizing, so that it deals somewhat with this enormous backlog.

But the Redwoods case is now a billion dollar backlog. That backlog that we were talking about around two to four billion dollars is probably somewhere between six to nine billion dollars.

Senator BRADLEY. Do you mean that authorized purchases total $6 to $9 billion?

Senator WALLOP. I would think we are very close to that by now, given the court rulings.

The CHAIRMAN. If the Senator would yield. It is certainly the intention of the bill to deal with that authorized backlog, not to preclude some new priority if the Congress feels that it should be there, but principally to deal with that backlog.

Senator WALLOP. Thank you.

The CHAIRMAN. Gentlemen, thank you very much, and we look forward to hearing from you as further advice on this matter.

Mr. HORN. Thank you, Mr. Chairman.

The CHAIRMAN. Next we have John W. Katz, Director of State and Federal Relations and Special Counsel to the Governor of Alaska, accompanied by Thomas Koester, Assistant Attorney General from the Alaska Department of Law.

Senator MURKOWSKI. Mr. Chairman, I would like the record to note that Senator Stevens will have a statement for the record, and I would appreciate it if you would accommodate that.[1]

The CHAIRMAN. Yes, we will hold the record open for him.

Senator MURKOWSKI. Thank you, Mr. Chairman.

The CHAIRMAN. Gentlemen, if you could summarize. We have another five witnesses and a panel after you, and I personally have got about 25 minutes to deal with this. And so if you would please proceed.

STATEMENT OF JOHN W. KATZ, DIRECTOR OF STATE/FEDERAL RELATIONS AND SPECIAL COUNSEL TO GOV. STEVE COWPER, STATE OF ALASKA; ACCOMPANIED BY G. THOMAS KOESTER, ASSISTANT ATTORNEY GENERAL, STATE OF ALASKA

Mr. KATZ. Mr. Chairman, for the record my name is John Katz. I am Director of State/Federal Relations and Special Counsel to the Governor.

With me today is Tom Koester of the Alaskan Department of Law. We will briefly summarize our written testimony.

The state is strongly opposed to the enactment of S. 735. We are joined in this opposition by 15 of the 16 members of the Western Governors Association, by the National Association of Counties, by the Water Resources Association, and by several conservation groups.

We believe that the Alaska Statehood Act represents a solemn compact between the federal government and the state of Alaska. Section 35 of the Mineral Leasing Act is part of that compact.

Pursuant to that compact, the state is entitled to 90 percent of the federal share of revenues derived from mineral leasing. We believe that the Statehood Act is a binding contract between the fed-

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[1] Senator Stevens' statement appears on page 8.

eral government and the state, and that it can be altered only with the consent of the state and of the federal government.

The legislative history of the Alaska Statehood Act demonstrates that section 35 and the mineral leasing formula contained therein was viewed by the Congress as a fundamental and integral part of the Alaska Statehood Act.

There is a popular misconception that Alaska receives 90 percent of mineral revenues, whereas other states receive only 50. In fact, that is not the case. The Congress made a conscious decision during the Statehood Act debates not to include the state of Alaska in the reclamation formula, and since we are not entitled to the 40 percent that would have been represented by our inclusion in the many millions of dollars that would have flowed from our inclusion in the fund—that decision we think was premised on sound grounds.

The fund just would not operate very well in Alaska. It is more adapted to this arid and semi-arid West, where large irrigation and impoundment projects make sense. Our short growing seasons and harsh climate and topography indicate that agriculture on that widespread basis would not be viable in Alaska.

The legislation pending before you would amend the Reclamation Act by eliminating funding in the reclamation fund. Instead, funds would be divided equally between the states and the federal government.

Similarly, it would amend the Wildlife Refuge Sharing Act by eliminating the 25 percent that now goes to counties from mineral development within refuges, and would alter the share that goes to the federal government.

We believe that these amendments would create a pernicious precedent; that there has been an understanding and a compromise between the states and the federal government with respect to land located within their boundaries, and in recognition of the fact that that land, that federal land, is not subject to state control or taxation, these revenue sharing formulas have been enacted into law.

The state of Alaska we think represents the most compelling instance of a compact between the federal government and the state. If our revenue sharing formulas can be amended in the way proposed by S. 735, then we believe we are embarked on a slippery slope where there may be no bottom.

Despite the fact that the legislation appears neutral on its face, there is no question in our minds that it targets Alaska for special treatment. The unique combination of Alaskan geology, federal law, and federal policy indicates to us that, with the possible exception of the Delta Refuge in Louisiana, there will probably not be very much future leasing within refuge except possibly in Alaska in general and with respect to ANWR in particular.

This legislation would hit the state at a particularly critical time in our history. We continue to suffer from an embryonic infrastructure. In fact, our road mileage is less than northern Virginia.

We suffer from some of the worst housing under the American flag. At the present time, we are in the throes of a recession created by reduced oil prices. As a consequence, there have been massive mortgage foreclosures, unemployment, and a cutback of state services.

We support the worthy goals of the Land and Water Conservation Fund and our testimony should not be construed to the contrary. But even a cursory examination of the fund indicates that the problem is not with income. In fact, receipts from designated sources such as OCS leasing and other sources are several times more than the authorized limitation of $900 million that Congress has provided.

In fact, the problem is not at the income stage, but at the appropriations stage. There, our research indicates that only once has Congress appropriated even at the two-thirds level of $900 million, and in six out of the last ten years the appropriations have been significantly less than half of the authorized limit.

We think that the $160 million that would be earmarked in S. 735 still does not solve the problem of authorization and appropriation. We believe that there is a direct relationship between this legislation and the Arctic National Wildlife Refuge.

The Cooper Administration strongly supports opening ANWR to oil and gas development, subject to reasonable regulation. But we believe that there are compelling reasons for affirming that decision and the legislation of this type, which would indirectly affect the decision, is not necessary.

We do not intend to turn this hearing into a hearing on the Arctic National Wildlife Refuge, but it is worth noting our increasing dependence on foreign sources of crude oil, the fact that Prudhoe Bay will begin to decline precipitously in the near future, and that respectable geologists feel that the Arctic National Wildlife Refuge represents the last—the most promising unexplored petroleum province in North America.

Mr. Chairman, for these reasons we respectfully urge you to take no further action on S. 735. If you feel compelled to do so, we feel that at a minimum this legislation should be considered within the context of a comprehensive re-examination of the Land and Water Conservation Fund.

Thank you.

[The prepared statement of Mr. Katz follows:]

TESTIMONY OF JOHN W. KATZ
BEFORE THE SENATE SUBCOMMITTEE ON
PUBLIC LANDS, NATIONAL PARKS AND FORESTS
July 14, 1987

Mr. Chairman and members of the Subcommittee:

My name is John W. Katz. I am Director of State/Federal Relations and Special Counsel to Governor Steve Cowper of Alaska. With me today is Tom Koester of the Alaska Attorney General's office.

I will present an overview of the State's concerns with respect to S.735, and Mr. Koester will describe the legal underpinnings of our position. We appreciate this opportunity to explain the views of the State on this legislation.

The State must oppose the enactment of S.735 on legal and policy grounds.

In our opinion, such enactment would violate the solemn compact between the United States and the State of Alaska which is embodied in the Alaska Statehood Act. The Act incorporates Section 35 of the Mineral Leasing Act of 1920. As a consequence, the State is entitled to 90% of the governmental share of bonuses, rentals, and royalties derived from the leasing of certain Federal public lands within the State.

We view the Statehood Act as a binding contract which was entered into knowingly and voluntarily by the people of Alaska and by the Federal government through Congressional enactment. This contract can only be altered by the consent of both parties. It is also worth noting that the legislative history of the Statehood Act demonstrates the intent of Congress to adopt special revenue sharing formulae in Alaska in recognition of the large amount of Federal land located there and the lack of infrastructure and other needed development.

Another principal reason for Congress's decision to provide Alaska with a larger revenue share than that which pertains to other western states was the concomitant decision to deny Alaska access to the Federal Reclamation Fund. In essence, the fund gives reclamation states an additional 40% of the proceeds derived from oil and gas leasing. The fund is primarily utilized in the arid and semi-arid West for irrigation and the construction of impoundment projects.

Alaska's topography, harsh climate, short growing seasons, etc. led Congress to conclude that the Reclamation Fund should not become operative in the State. As a consequence, we have been denied many millions of dollars which would represent the State's share of mineral revenues that were included in the fund for subsequent allocation to other western states.

Further, it is important to note that S.735 amends the Reclamation Act of 1902 and thereby reduces the western states' share of revenues. Funds which would have been credited to the Reclamation Fund under existing law would be deposited in the Land and Water Conservation Fund and miscellaneous receipts of the Treasury under S.735. Similarly, S.735 amends the Refuge Revenue Sharing Act. Funds which would be divided between the county where the Refuge is located and the Federal government under current law would be divided between the states and the Federal government under S.735.

Although S.735 could affect other states and local governments, we believe that the bill targets Alaska for especially harsh treatment. This legislation purportedly would apply to any mineral leasing which occurs after the date of enactment within a National Wildlife Refuge. With the exception of the Delta Refuge in Louisiana, only the Arctic National Wildlife Refuge and perhaps other refuges in Alaska present any realistic likelihood of leasing within the foreseeable future. In other states, a combination of Federal law, policy, geology, and subsurface ownership greatly limits the prospect of the generation of significant Federal revenues from S.735.

Mineral revenue sharing formulae provided by the Federal government to the western states represent a very conscious decision to compensate these states and local governments for the existence of Federal lands over which they have little control and no taxing authority. S.735's amendment of the Reclamation Act, Mineral Leasing Act of 1920, the Refuge Revenue Sharing Act, and the Alaska Statehood Act establishes a precedent for future actions which would have greater monetary impacts on states and local governments. This precedent is particularly troubling because in many ways, Alaska's case for retention of its entitlement under the Statehood Act is more compelling from a legal and policy point of view than the arguments which could be mounted by other states. Therefore, S.735 could well mark the beginning of a slippery slope which could cause a deficit-conscious Congress to enact future legislation adversely affecting other revenue sharing formulae.

Mr. Chairman, we strongly support the purposes of the Land and Water Conservation Fund. Clearly, the fund fosters habitat protection and land acquisition, where appropriate, on Federal lands. However, our research indicates that the fund does not suffer from lack of sufficient revenue sources to achieve these purposes.

As you know, Congress has previously authorized the annual expenditure of $900 million from the fund. Yet, the amount of revenue flowing into the fund from sources previously designated by Congress exceeds this ceiling by a significant margin. Moreover, the Federal government has never spent more than two-thirds of the authorized amount, and in six of the last 10 years, the annual expenditure has been considerably less than half.

Thus, if the fund has not completely met its laudable objectives, the problem does not appear to be with the availability of sufficient revenues. Rather, the difficulty is with Congressional allocations at the other end of the funding process. If this is true, we are at a loss to understand why the enactment of S.735 is necessary, particularly in view of the considerations referred to previously.

Enactment of S.735 would come at a particularly difficult time in Alaska's history. The State still suffers from the lack of well developed infrastructure and other acute [illegible] economic problems. With the marked reduction in the world price of oil upon which Alaska is so dependent, our people are experiencing severely depressed economic conditions, including high unemployment, widespread mortgage foreclosures, and significant cutbacks in State services. While Alaska's leaders are doing their best to diversify the State's economy and to take other necessary measures, it may be years, if ever, before the State fully recovers. In these circumstances, to reduce possible revenues in the manner suggested by S.735 would represent an especially hard blow.

The Cowper Administration strongly supports oil and gas development in the coastal plain of the Arctic National Wildlife Refuge (ANWR), subject to appropriate environmental stipulations. We recognize that S.735, by altering existing revenue streams, might generate some additional support for opening ANWR. We believe, however, that there are many compelling reasons for authorizing such development without resorting to the indirect means contained in S.735. These reasons include the need to find new domestic oil sources at a time of rapidly decreasing production, to reduce our negative balance of trade, to enhance National security, and to create additional sources of revenue and jobs in Alaska and throughout the Nation.

Mr. Chairman, for the reasons outlined here, we respectfully urge the committee to forego any further action on S.735. Thank you for your consideration of our position.

The CHAIRMAN. Thank you, Mr. Katz.

I might say that we do not regard, at least I do not regard, this as taking anything from Alaska, because drilling on ANWR is not now permitted and it will be permitted only under such terms and conditions, if ever, as the Congress specifies.

And you know what all the arguments are and I will not repeat them here. But other states do have a 50–50 share, and that is the basis of the 50–50 here.

Is there anything further?

STATEMENT OF G. THOMAS KOESTER, ASSISTANT ATTORNEY GENERAL, STATE OF ALASKA

Mr. KOESTER. Just a few brief comments, if I might, Mr. Chairman.

My name is Tom Koester, Assistant Attorney General from the State of Alaska. Mr. Katz alluded to the fact that Alaska views the 90 percent entitlement from federal lands in Alaska under the Mineral Leasing Act as an element of the statehood compact.

And as the chair undoubtedly knows, the Supreme Court has characterized the provisions of the Statehood Act in terms of a compact as "an unalterable condition of the admission, obligatory upon the United States."

So as Senator Murkowski said, if it is indeed a provision of the statehood compact, it cannot be amended without the concurrence of the State of Alaska.

The legislative history of the Alaska Statehood Act makes clear that indeed Congress considered at great length the 90 percent entitlement.

The CHAIRMAN. I have read that statement.

Mr. KOESTER. Perhaps the most significant comment was one that was made on the floor of the Senate, in which Senator Butler of Maryland stated—he reminded his Senate colleagues that grants in the statehood act are irrevocable and cannot be changed by a subsequent Congress, and he said:

> A bill which grants statehood is not some minor piece of legislation, but it is a major function of the national legislature. We cannot undertake to perform that function without reminding ourselves that we are asked to make a grant which cannot be revoked.
>
> We cannot, therefore, consider these bills as we would ordinary legislation, in the sense that ordinary legislation may be amended or changed in subsequent years as experience dictates.

But I would simply remind the Committee that Alaska does view this 90 percent entitlement as an element of the statehood compact. It was characterized by one Congressional Committee as a "major provision" of the Alaska Statehood Act.

We would urge the Committee to keep in mind that a modification of that formula with respect to federal public lands in Alaska would have no effect without Alaska's concurrence.

Congress' inclusion of that formula was merely a reflection of the understanding and the historic compromise that was made in the 1920 Mineral Leasing Act, whereby the traditional policy of the federal government to dispose of lands to encourage western migration, settlement, and development was changed to one of retaining

title in the federal government, but dedicating 90 percent of the economic benefits from those lands to the states.

So it is more than just for Alaska. It is an element of the statehood compact, but it is also a much broader public policy that has guided more than 60 years of federal land management.

We would urge Congress to be very cautious in changing that historic compact.

[The prepared statement of Mr. Koester follows:]

TESTIMONY OF G. THOMAS KOESTER
BEFORE THE SENATE SUBCOMMITTEE ON
PUBLIC LANDS, NATIONAL PARKS AND FORESTS
July 14, 1987

Thank you, Mr. Chairman.

My name is G. Thomas Koester. I am an Assistant Attorney General for the State of Alaska.

The State of Alaska opposes S.735 on both legal and policy grounds. As a legal matter, we view S.735 as an impermissible attempt to amend a major component of the statehood compact under which Alaska was admitted to the Union. As a matter of policy, S.735 would abrogate the historic compromise in public land law under which the United States changed its policy of disposing of federally owned lands to one of retaining title but dedicating the proceeds of those lands to the states in which the lands are located.

Section 35 of the Mineral Leasing Act of 1920, 30 U.S.C. § 191, currently governs the distribution of revenues from oil and gas leasing of federal public domain lands. Under that statute, 90 percent of those revenues are dedicated to the benefit of the states in which the lands are located. In the lower 48 states, this dedication takes the form of a direct grant of 50 percent of the revenues and deposit of an additional 40 percent in the Reclamation Fund, established under the Reclamation Act of 1902, 43 U.S.C. §§ 372 et seq. Because Alaska is not covered by the Reclamation Act, Alaska receives the full 90 percent under the statute.

This dedication of federal oil and gas revenues to the states represented a historic compromise in the history of public land law. Around the turn of the century, there was a major change in federal land policy. The traditional practice of federal land disposal to encourage development and western migration was abandoned, and a new policy of federal land retention was instituted. To compensate the states for this continued federal ownership, which in many cases precludes economic development and in all cases precludes state and local taxation, Congress dedicated 90 percent of the mineral leasing revenues from those lands to the states.

During Congressional consideration of statehood for Alaska, considerable attention was given to the distribution of mineral leasing revenues from federal lands in Alaska. The result of those lengthy deliberations was that the revenue distribution provisions of the Mineral Leasing Act of 1920 were expressly incorporated into the Alaska Statehood Act.

The provisions of a statehood act admitting a new state to the Union constitute a compact -- a legally enforceable contract -- between the citizens of the new state and the United States. Such a compact does not impose obligations only on one of the parties; instead, obligations are imposed on both the new state and the United States. The specific terms of such a compact are obligatory and subsequently cannot be unilaterally amended by either party. As the United States Supreme Court once noted with respect to the Act admitting Wisconsin to the Union, a statehood act provision is "an unalterable condition of the admission, obligatory upon the United States." Beecher v. Wetherby, 95 U.S. (5 Otto) 517, (1877).

Congress incorporated the Mineral Leasing Act of 1920 into the compact under which Alaska was admitted to the Union in section 28(b) of the Alaska Statehood Act. In part, this undoubtedly was no more than Congressional recognition of the long-standing policy, applicable to virtually all of the western states, of dedicating 90 percent of the proceeds of public lands to the

states in which the lands are located -- i.e., the historic compromise adopted in 1920.

At the same time, however, the legislative history of the Alaska Statehood Act makes clear that Congressional incorporation of the Mineral Leasing Act in the statehood compact also was Congress' way of partially compensating Alaska for the substantial amount of federal land which had been withdrawn and reserved by the federal government for various purposes, and the attendant loss of economic productivity caused by those withdrawals and reservation. Ironically, a number of those withdrawals and reservations were for wildlife refuges, the specific federal lands for which S.735 seeks to change the revenue distribution formula.

To fully appreciate Congress' incorporation of the Mineral Leasing Act's 90 percent entitlement for Alaska in the statehood compact under which Alaska was admitted, one must look at the facts confronted by Congress at that time. A significant concern during the deliberations on Alaska statehood was whether the Alaska economy was sufficient to support a new state and the essential government services which the new state would have to provide. Much of that concern was a result of the fact that more than 99 percent of all the land in Alaska was owned by the federal government. Little or no development had taken place because of federal land management practices, and federal land therefore was not contributing to the economic development of the territory. In addition, because it was federally owned, it would be exempt from any taxes which might be levied by a new state government.

To ensure that the new State of Alaska would have sufficient economic resources to meet the necessary expenses of state government, Congress included a substantial land grant in the Alaska Statehood Act. In doing so, however, Congress discovered that more than one-fourth of the land in Alaska -- more than 95 million acres -- was included in federal withdrawals and reservations, several of which were wildlife refuges. Those withdrawn and reserved lands appeared to include most of the valuable resources in Alaska.

As a partial remedy to this situation, which one committee report characterized as "the problem of federal reservations," Congress consciously granted Alaska 90 percent of the oil and gas leasing revenues from federal lands in Alaska. Characterizing this as one of the "major provisions" of the Alaska Statehood Act, Congress concluded that this would minimize the adverse impact of federal withdrawals on the new state's economic viability and would ensure that the new state would benefit from any development of the substantial resources which might be found within those federal withdrawals.
Attached to the printed text of my testimony are a number of excerpts from the legislative history of the Alaska Statehood Act which demonstrate that both supporters and opponents of Alaska Statehood were well aware that Congress was including, as part of Alaska's statehood compact, an entitlement to 90 percent of all oil and gas lease revenues from federal lands in Alaska in perpetuity. While it would serve no purpose to go over all of them in detail, a few examples illustrate the broader Congressional understanding.

Senator Barrett of Wyoming, a supporter of statehood for Alaska, authored the language of what became section 28(b) of the Alaska Statehood Act, the section that incorporates the Mineral Leasing Act into the statehood compact. During a Senate hearing on statehood for Alaska, he remarked: "So I think it would be eminently fair and just and right and proper, when we write this bill up, that we . . . let the Federal Government retain the title to the minerals except such public lands as are granted to you, but give the Territory now and the State of Alaska-to-be ninety percent of the income from the minerals under the Leasing Act royalties that come in from now on out." Later in the

hearing, he introduced the language that now appears as section 28(b) of the Alaska Statehood Act with the words: "I propose to insert a new section 21 on the last page of the bill and provide in here that 90 percent of the income from coal and 90 percent of the income from the leasing act minerals shall go to the new State of Alaska." He noted that the Secretary of Interior had suggested such a provision be included in the statehood bill.

Representative Dawson of Utah, also a supporter of statehood for Alaska, commented on the House floor that "[t]hese [revenue sharing] provisions are the foundation upon which Alaska can and will build to the enormous benefit of the national economy shared by her sister States."

Senator Talmadge of Georgia, an opponent of statehood, noted during the Senate floor debate that the Statehood Act land grant and the various revenue sharing measures, specifically including the entitlement to 90 percent of oil and gas leasing revenues, "have been referred to variously as a 'dowry' and 'the greatest giveaway of natural resources in the history of this country.'"

Finally, and perhaps most significantly, Senator Butler of Maryland, a statehood opponent, reminded his Senate colleagues that grants made in statehood legislation are irrevocable and cannot be changed by a subsequent Congress:

> A bill which grants statehood is not some minor piece of legislation, but is a major function of the national legislature. We cannot undertake to perform that function without reminding ourselves that we are asked to make a grant which cannot be revoked. We cannot, therefore, consider these bills as we would ordinary legislation in the sense that ordinary legislation may be amended or changed in subsequent years as experience dictates.

When placed in its proper historical perspective, it is not surprising that Congress included an entitlement to 90 percent of the proceeds from federal oil and gas leasing in the Alaska Statehood Act. The Mineral Leasing Act, and its revenue distribution formula under which 90 percent of the revenues from federal lands are dedicated to the states in which the lands are located, represents a historic trade-off in the development of public land law. In enacting it, Congress terminated its traditional policy of disposing of the public lands. Instead, it determined that the federal government should retain those public lands, but should dedicate most of the mineral revenues from those lands to the benefit of the states in which the lands are located.

Virtually all of the public land states were admitted to the Union prior to the enactment of the Mineral Leasing Act, and its dedication of 90 percent of public land revenues to the states, in 1920. As a result, the statehood acts admitting those states do not include a provision similar to the one incorporated in the Alaska Statehood Act. However, incorporation of the Mineral Leasing Act in the Alaska Statehood Act simply reflects the Congressional understanding that the Mineral Leasing Act indeed was a historic compromise and, as a result of that compromise, the public land states are to receive the benefit of 90 percent of the revenues from federal lands within their borders in return for the continued federal ownership and management of those lands.

Passage of this bill would significantly alter one of the carefully considered terms and conditions under which Alaska was admitted to the Union. It would be an impermissible unilateral attempt to amend the solemn compact between the national government and the citizens of Alaska. Alaska has not agreed to this modification of the compact between Alaska and the United

77-689 - 87 - 3

States and, without such agreement, it would have no force or effect.

It also would signal a marked departure from the historic compromise, under which Congress dedicated 90 percent of the proceeds of the public lands to the states in return for continued federal ownership, which has guided federal public land policy throughout the United States for more than six decades.

Alaska supports the goals of the Land and Water Conservation Fund. At the same time, the state is concerned that these goals not be accomplished at the cost of a fundamental change in the provisions of the solemn compact under which Alaska entered the Union and the historic compromise which has guided federal public land policy for more than two generations.

Thank you very much for the opportunity to testify on this bill. We hope that we can work constructively with this subcommittee and the Congress to improve the effectiveness of the Land and Water Conservation Fund without sacrificing Alaska's statehood birthright and more than sixty years of federal public land policy. Again, thank you very much.

ALASKA STATEHOOD ACT LEGISLATIVE HISTORY:
CONGRESSIONAL INCORPORATION OF MINERAL LEASING
ACT 90% REVENUE SHARING FORMULA IN
ALASKA STATEHOOD COMPACT

1. During Senate hearings on Alaska Statehood, one senator explained that he thought the new State of Alaska should get all of the lands within its boundaries but, because that probably was not possible, the Statehood Act should include a grant of 90 percent of Mineral Leasing Act revenues "from now on out."

> Senator BARRETT. . . .
>
> . . .
>
> So I think it would be eminently fair and just and right and proper, when we write this bill up, that we provide here that the [Mineral] Leasing Act of 1920, as amended, and let them retain title to the lands up there, except that which is granted -- personally I hate to see that done, but to be realistic we probably have to do that -- let the Federal Government retain the title to the minerals except such public lands as are granted to you, but give the Territory now and the State of Alaska-to-be ninety percent of the income from the minerals under the Leasing Act royalties that come in from now on out.

Hearings on S. 49 and S. 35 before the Senate Committee on Interior and Insular Affairs, 85th Cong., 1st Sess. 30-31 (1957).

2. Later in those hearings, the same senator offered an amendment to the proposed statehood legislation under consideration which would provide that "90 percent of the income from the leasing act minerals shall go to the new State of Alaska," noting that the Secretary of Interior supported a bill under consideration in the House of Representatives which would do precisely that but "suggested that the statehood bill was the proper place to insert such a provision." The language of the proposed amendment is identical to the language of what ultimately was enacted as section 28(b) of the Alaska Statehood Act. Both the author of the proposed amendment and one of his colleagues hoped that giving Alaska a 90 percent entitlement might ultimately result in their states getting the same thing. Whether that would result or not, however, they agreed that Alaska should receive such an entitlement as part of its statehood act.

> Senator ANDERSON. . . . As far as I am concerned, I hope you [Alaska's non-voting Delgate Bartlett] would agree with me that what we tried to do was to make it possible for Alaska to come

in as a State and live self-respectingly among the States.

We did not strip her of every dollar she could get, but tried to give her all the money to make Alaska a good and fine progressive State. I believe the bill does that.

. . .

Senator BARRETT. . . . I am offering an amendment here for the consideration of the committee. I think this is probably as good a time as any to do it.

I discussed this amendment this morning when you were absent, Senator Anderson. I propose to insert a new section 21 on the last page of the bill and provide in here that 90 percent of the income from coal and 90 percent of the income from the leasing act minerals shall go to the new State of Alaska.

When I mentioned that this morning, Delegate Bartlett told me that the House committee had considered a bill doing precisely that and had reported it out favorably. Since then I have looked up the record and I find that the Secretary of the Interior has filed a favorable report on the bill and agreed that it should be enacted into law but suggested that the statehood bill was the proper place to insert such a provision.

Maybe it would be well to have in these hearings a copy of the report that the Secretary of the Interior made on the House bill.

Senator JACKSON. Without objection, the report and the amendment of the Senator from Wyoming will be included in the record at this point, if that is agreeable. The report and the amendment should go together.

(The documents referred to are as follows:)

BARRETT AMENDMENT TO S. 49

Sec. 22. . . .

(b) Section 35 of the Act entitled "An Act to promote the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain," approved February 25, 1920, as amended (30 U.S.C. 191) is hereby amended by inserting immediately before the colon preceding the first proviso thereof the following: ",and of those from Alaska 52 1/2 per centum thereof shall be paid to the State of Alaska for disposition by the legislature thereof".

[Secretary of Interior's Report]

DEAR MR. ENGLE [Chairman of the House Committee on Interior and Insular Affairs]: This is in reply to your request for the views of this Department on H. R. 3477, a bill relating to moneys received from mineral lands in Alaska.

We recommend that H. R. 3477 be enacted. We believe, however, that the subject matter of the bill would be more appropriately covered in statehood legislation.

. . .

Senator ANDERSON. Do you not think Senator Barrett, that supplements the statement I made, that whatever makes it possible for the State to exist is a good bill?

I think Senator Barrett should be commended for that proposal. I thing there are some other States that the proposal could be applicable to but we may get our rights some time if Alaska does.

Senator JACKSON. That may be a good precedent for the other 11 Western States.

Senator ANDERSON. It happens that Wyoming and New Mexico are the 2 principal contributors to the Federal Treasury on this particular section, $100 million in Wyoming and $130 million or $140 million in New Mexico which we could have used very nicely in our State.

> Senator JACKSON. We may have some problems with the other 37 States on this issue.
>
> Senator BARRETT. I do not think so, particularly. I think we would be remiss a bit if we did not include it here, particularly since the Bureau of the Budget and the Secretary of the Interior and everyone interested has approved this.

Hearings on S. 49 and S. 35 before the Senate Interior and Insular Affairs Committee, 85th Cong., 1st Sess. 66-67 (1957).

3. A House committee report, in a section entitled "The Problem of Federal Reservations," noted that a partial solution to the depressing effect of federal withdrawals on the economic viability of a new Alaska state government would be to specify that the act of admission would grant Alaska 52 1/2 percent of Mineral Leasing Act revenues. This would be in addition to the 37 1/2 percent that all other public land states receive because, while those states were covered by the Reclamation Act, Alaska would not be.

> As previously noted, tremendous acreages of land in Alaska have been tied up in the status of Federal reservations and withdrawals for various purposes. The committee feels strongly that this practice has been carried to extreme lengths in Alaska, to a point which has hampered the development of such resources for the benefit of mankind. As a result, a long list of potential basic industries in the territory, including the forest industry, hydroelectric power, oil and gas, coal, various other minerals, and the tourist industry, can exist in Alaska only as tenants of the Federal Government, and on the sufferance of the various Federal agencies. The committee considers that to be an unhealthy situation.
>
> The failure of these industries to grow under such a restrictive policy is a proof of its unwisdom. The committee feels that this policy must be changed if statehood for Alaska is to be a success.
>
> In its approach to the statehood issue, the committee has attempted to make a start toward such a change by various specific provisions in the bill. . . .

> A second provision in section 28 amends the Mineral Leasing Act of 1920, as amended, by granting 52 1/2 percent per annum of the net proceeds realized from coal, phosphates, oil, oil shale, and sodium on the public domain in Alaska shall be paid to the State of Alaska for disposition by the legislature thereof.
>
> The payment of these proceeds is recommended in return for Alaska not being covered by the Reclamation Act of 1902, as amended. The Reclamation Act provides that in the 17 Western States 52 1/2 percent of the oil- and gas-lease revenues goes into the reclamation fund; 37 1/2 percent is returned to the respective States, and the remaining 10 percent is retained by the Federal Government for administration purposes.

H.R. Rep. No. 624, 85th Cong., 1st Sess. 7-8 (1957).

4. The same point is reiterated in the sectional analysis.

> Subsection [28](b) amends the act to promote the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain approved February 25, 1920, by providing that 52 1/2 percent of the proceeds received therefrom shall be covered into the State treasury for disposition by the State legislature.
>
> The payment of these proceeds is recommended in return for Alaska not being covered by the Reclamation Act of 1902, as amended. The Reclamation Act provides that 52 1/2 percent of the oil and gas revenues goes into the reclamation fund; 37 1/2 percent is returned to the respective States and the remaining 10 percent is retained by the Federal Government for administration purposes.

Id. at 23.

5. A Senate Report made Alaska's entitlement to 90 percent of federal oil and gas leasing revenues even clearer.

> Some of the additional costs connected with statehood will be met by granting the State a reasonable return from Federal exploitation of

> resources within the new State. In the past the United States has controlled the lion[']s share of such resources and, in some instances, retained the lion's share of the proceeds. This situation, though it has not proved conducive to development of the Alaskan economy, may have been proper at times when the United States paid a large part of the expense of governing the Territory. However, the committee deems it only fair that when the State relieves the United States of most of its expense burden, the State should receive a realistic portion of the proceeds from resources within its borders. The divisions of proceeds established in the bill are determined by comparisons with other States and consideration of the geographic facts which apply to Alaska.
>
> . . .
>
> Section 22 of the bill extends to the State the provisions of Public Law 88, 85th Congress, which was approved July 10 of this year. Under this new law the Territory receives a total of 90 percent of the profits from government coal mines and 90 percent of the profits from operations under the Mineral Leasing Act. Prior to the 1957 law, Alaska received none of the proceeds from government coal mines and 37 1/2 percent of the proceeds from mineral leasing operations. Without section 22 in the bill, the new State would not be within the purview of the 1957 act.

S. Rep. 1163, 85th Cong., 1st Sess. 3 (1957).

6. During the floor debate on Alaska statehood in the House of Representatives, one congressman outlined the relationship between the extensive federal withdrawals and the entitlement to 90 percent of all mineral leasing revenues which, in addition to the land grant, would form the "foundation" of Alaska's entry into the Union.

> Mr. DAWSON of Utah. . . .
>
> Further, over 92-million acres -- both in and out of the defense area -- already have been withdrawn by the Federal Government, and these include much of the most valuable resources. They include, for example, nearly 21-million acres of the

best forest lands and nearly 49-million acres of oil and gas reserves.

. . .

As to that lion's share of lands which would remain under Federal control, Alaska would receive -- for the support of its public schools -- 5 percent of the net proceeds from the sale of any land by the Federal Government.

Additionally, Alaska would receive 90 percent of the proceeds from the operation of Government coal mines and from the production of coal, phosphates, oil, oil shale, and sodium from the public domain. Reflecting Alaska's exclusion from the Reclamatioin Act of 1902, these are the same provisions which this Congress approved -- by consent -- for the Territory of Alaska last year in Public Law 85-88.

. . .

These provisions are the foundation upon which Alaska can and will build to the enormous benefit of the national economy shared by her sister States. We cannot make Alaska a "full and equal" State in name and then deny her the wherewithal to realize that status in fact.

85 Cong. Rec. 9360-9361 (1958).

7. During the floor debate in the Senate, an opponent of statehood for Alaska argued that the sharing of mineral revenues with the new State of Alaska, as a means to "alleviate" the adverse effect of continued federal control of significant acreage and resources, would result in Alaska being too dependent on those federal revenues.

Mr. ROBERTSON. . . .

The uniqueness of the Alaska land situation is further emphasized in the committee report, which points out that on the occasion of admission of existing States land grants amounted to a maximum of 6 to 11 percent of the total land area, and much acreage already had passed into private taxpaying ownership, whereas in Alaska, even after

> a grant of unprecedented propotions to the proposed State, the Federal Government would continue to control more than two-thirds of the total acreage and an even larger percentage of the resources.
>
> To alleviate this situation to some extent, the bill proposes to share with the State profits from Government coal mines, mineral leases, and the fur monopoly, which, of course, would make the State government a pensioner dependent on the Central Government to a much greater extent than the existing States which already, in my opinion, have jeopardized their constitutional rights by too ready acceptance of Federal handouts for a variety of public works and welfare programs.

85 Cong. Rec. 12020 (1958).

8. A supporter of Alaska statehood introduced a Department of Interior memorandum outlining the "new sources of revenue available to Alaska," one of which was listed as "oil and gas leases (90 percent to the State)." Another supporter then pointed out that oil had just been discovered in Alaska, and that discovery "will have a tremendous impact on the ability of the new State to provide the essential resources to support itself."

> Mr. CHURCH. . . .
>
> Mr. President, I wonder if the Senator from Florida will permit me to offer at this point in his address a memorandum which I have received from the Department of the Interior, which is directed to the very subject on which the Senator is now elaborating, namely, the capacity of Alaska to support statehood.
>
> We have heard in the course of this debate many exaggerated statements about how statehood would impose an impossible burden upon the undeveloped economy of Alaska. If one were to listen uncritically to such statements, one might be led to conclude that statehood would drive the Alaskan economy into insolvency and bring ruin upon the people there.
>
> I think this memorandum effectively gives a rebuttal to that argument, in that it shows

precisely what the additional costs for statehood would be, and what the additional income to the newly formed State government would be, by virtue of the provisions contained in the pending bill.

. . .

The PRESIDING OFFICER. Without objection, the memorandum referred to by the Senator from Idaho will be printed in the Record.

The memorandum is as follows:

. . .

New Revenues Available to Alaska

Oil and gas leases (90 percent to the State).....$3,000,000

. . .

Mr. JACKSON. . . .

I should like to point out one further consideration in connection with the financial ability of the proposed new State to take care of its responsibilities. Just 11 months ago we witnessed the first oil strike of any substance in Alaska. A little more than a year ago about 5 million acres were under lease, or applications were pending with respect thereto. The most recent check, in May, showed 32 million acres covered by oil leases or lease applications.

The program involves all the major oil companies and numerous independent oil companies. We have been advised in the Committee on Interior and Insular Affairs, where some of the legislation on this subject is handled, that the signs are most hopeful for a tremendous oil development in the area which will become a State.

I add that one point because it will have a tremendous impact on the ability of the new State to provide the essential resources to support itself. This is a factor not indicated in the

> Secretary's analysis of the ability of the new State to do the job.

85 Cong. Rec. 12207-12208 (1958).

9. An opponent of statehood again pointed to the 90 percent entitlement in the statehood bill as evidence of the "prevailing doubt" regarding the ability of the new state to support itself.

> Mr. TALMADGE. . . .
>
> The prevailing doubt of Alaska's ability to support itself is evidenced by the generous special considerations which are made for it in this statehood act.
>
> . . .
>
> In addition [to a large land grant], it would be granted:
>
> . . .
>
> Ninety percent of the profits from Government coal mines and operations under the Mineral Leasing Act, of which 37 1/2 percent of the latter would be earmarked for roads and schools.
>
> . . .
>
> These considerations have been referred to variously as a "dowry" and "the greatest giveway of natural resources in the history of this country."

85 Cong. Rec. 12297 (1957).

10. Finally, the permanent and irrevocable nature of the granting of statehood was described.

> Mr. BUTLER. . . .
>
> Despite all its complex features, the primary purpose of the bill is to grant statehood. A bill which grants statehood is not some minor piece of legislation, but is a major function of the national legislature. We cannot undertake to

> perform that function without reminding ourselves that we are asked to make a grant which may not be revoked. We cannot, therefore, consider these bills as we would ordinary legislation in the sense that ordinary legislation may be amended or changed in subsequent years as experience dictates. . . .
>
> . . .
>
> My research has also developed that there is contained in the bill provisions which have the effect of giving away more revenue and more property than has ever been given to any State in its enabling act.

85 Cong. Rec. 12316-12317 (1958).

The CHAIRMAN. We will certainly be very cautious in that, and we will pay due regard to that question, which I was not aware of, of your view that that is part of the condition of admittance of the state, which can be changed only with the consent of the state of Alaska. So we will get our legal eagles to work on that.

Gentlemen, thank you very much. I am sorry to give you such a short period of time. You had an excellent statement which I have read and it is very well researched, and we will pay due and proper regard to that.

Thank you very much.

Mr. KATZ. Thank you, Mr. Chairman.

The CHAIRMAN. Finally, we have a panel with: Barry Tindall, Director of Public Works of the National Recreation and Park Association—Director of Public Affairs, excuse me; Destry Jarvis, Vice President of the National Park and Conservation Association; Tim Mahoney, Washington Representative for the Sierra Club and Chairman of the Alaska Coalition; Lonnie Williamson, Vice President, Wildlife Management Institute; Jack Berryman, Executive Vice President of the International Association of Fish and Wildlife Agencies.

Gentlemen, welcome to the Committee. This is an outstanding panel. I hope you can quickly summarize, and I hate to give you short shrift, but we are going to have a vote shortly and then I have got a very high priority meeting after that to deal with what we call our 302(b) allocations from the Budget Committee on the Appropriations Committee, and that is really a very first priority.

So Barry Tindall, why do you not begin.

STATEMENT OF BARRY S. TINDALL, DIRECTOR OF PUBLIC AFFAIRS, NATIONAL RECREATION AND PARK ASSOCIATION

Mr. TINDALL. Mr. Chairman, we hope your 302(b) allocation is favorable to your Committee, and especially favorable to the Land and Water Conservation Fund and its broad context.

In that regard, I believe the Budget Committee assumed a distribution of about $250 million for land and water. We would hope you would keep your eye on that particular aspect of it.

Hearing you say that in the context of this hearing gives me pause to say what I will say, but I wish we could be supportive of the present bill, but we in fact are not unless significant changes are made.

The two features that we would like to just briefly call to your attention are: first is the fact that the Land and Water Conservation Fund has from the outset been a partnership between the national government, the states, local governments, and others. If the Congress in its wisdom decides to pursue S. 735 or some variations thereof, we would hope and would like to work with you to assure that in fact this partnership continues.

The second aspect that we would call to your attention is that, if in fact again Congress in its wisdom decides to access the national wildlife refuge system for energy extraction activities, then we think the bulk, literally 100 percent, of any revenues that come out of those activities ought to be reinvested in conservation and recreation purposes.

That would diminish the potential for other pressures, namely say general fiscal support to a state or nation, to drive those decisions. If this Administration or any future Administration understands from the outset that whatever is developed goes back into recreation and conservation, then that may in fact cause a little different consideration of those decisions.

Those are the two principal things that we would call to your attention in the interest of time today. Thank you.

[The prepared statement of Mr. Tindall follows:]

STATEMENT OF NATIONAL RECREATION AND PARK ASSOCIATION ON S.735 BEFORE SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS, UNITED STATES SENATE, JULY, 14, 1987

Mr. Chairman, Members of the Subcommittee: I am Barry S. Tindall, director of Public Affairs for the National Recreation and Park Association. We appreciate the opportunity to address proposed amendments to the Land and Water Conservation Fund Act of 1965.

The Association is a national organization of 20,000 individuals, agencies and organizations. Our members include civic leaders and professionals who guide, develop and manage recreation and park services and resources, principally but not exclusively in the public sector. Our members include people working at all levels of general government and special districts, in the Armed Forces, in hospitals and other institutions serving special populations, and in academic settings. We have at least one affiliate organization in each state, and several in other countries. NRPA members have been centrally involved in activities authorized by the Land and Water Conservation Fund Act.

S. 735 proposes to authorize the distribution of 25 percent of the income derived from the leasing of oil and gas resources in the National Wildlife Refuge System to a special account within the Land and Water Conservation Fund exclusively for Federal land acquisition. It does not directly authorize energy development in the refuge system, but the relationship is potentially close.

While there are certain features of the bill with potential merit we cannot support enactment of the present measure. We say this reluctantly, because its author has been in the forefront of actions to enhance recreation through resource conservation.

Among our concerns:

o The bill assumes in large part that the present problem associated with the Land and Water Conservation Fund includes the amount of revenue available to it. This is not the case. Rather, since fiscal year 1965 over $82 billion has accrued to the United States from Outer Continental Shelf activity. OCS is now the principal LWCF source. The problem is the nonavailability of funds, through appropriations or other means.

o The bill, perhaps indirectly, encourages activities potentially detrimental to the type of resources proposed for protection by the Land and Water Conservation Fund Act and other statutes.

o The bill fails to recognize that a central strength of the Land and Water Conservation Fund Act is its ability to develop a partnership between the national government, the states, and others and to leverage investments by non-federal participants. It fails further to recognize the need for new LWCF constituencies.

Notwithstanding these objections if the Committee and Congress determine that the legislation should pass we would strongly recommend amendments which achieve the following:

o <u>All public receipts from activities on the National Wildlife Refuge System should be reinvested for conservation and recreation purposes</u>.

S.735 proposes a distribution formula which fails to fully recognize the magnitude of conservation and recreation needs and which might encourage local or other actions inconsistent with national conservation and recreation goals. We propose that 100 percent of all revenues associated with potential energy development activities be available to the Land and Water Conservation Fund. This distribution should remain in force for a significant time, perhaps 25 years. This approach would have the dual impact of greater conservation and recreation investments while 'dampening'

extraction activities motivated principally by fiscal need. The natural resources under discussion here, and the fiscal resources that might result from their use, belong to all citizens. The return of 50 percent of receipts to a particular state fails to recognize this principle.

- o The States, and through the states, local governments, should participate in use of all funds available from the special account. The State/Federal distribution ratio should be 60/40 and the special account "base" of $160 million should be increased proportionately. Apportionment among the states should follow the existing formula.

The Land and Water Conservation Fund has, since its authorization, functioned as a partnership between governments. The states and local governments have proven effective and efficient partners in defining and working toward national conservation and recreation goals. The Land and Water Conservation Fund Act's original distribution formula was 60 percent state and 40 percent federal. Until about 1980 appropriations generally followed this pattern. Recently, many organizations endorsed a series of concensus points on a potential future fund, including the 60/40 distribution formula.

Since its authorization state and local governments have invested over $3 billion in non-federal resources to equally match congressional LWCF appropriations. They have assumed all operational and other costs in perpetuity. Achievements are impressive: over 34,200 acquisition and development projects, and 2.3 million acres of land reserved for conservation and recreation purposes. Population growth and distribution, a continuing high demand for recreation opportunity, especially close to home, and rapidly deminishing land conservation opportunities all reinforce the need to strengthen this outstanding public partnership.

Senator Johnston's introductory statement on S.735 noted: "...I concede that much work remains to be done relative to these matters (reauthorization of LWCF) but I think that this approach of putting a variety of legislative vehicles and options before the Committee and the Senate will serve us well."

S. 735 is one option. It contains features which, if developed more fully, could be supported in a more comprehensive bill. It recognizes, for example, that the gap between authorization and actual availability of funds must be substantially closed. The proposal recognizes, too, that in excess of $5 billion remains credited to the Land and Water Conservation Fund treasury account. Public agencies, land owners, and the present and future user public have every right to expect that public resources will be available to reasonably plan, conclude agreements, and provide recreation opportunity in a timely and efficient manner.

We look forward to working with the Congress to achieve a viable funding program for parks and recreation. We believe that legislation which deals with fiscal resources for parks, recreation and conservation must ultimately recognize and embrace associated needs and conditions, among them:

o The desirability of reinvesting some fiscal resources in a "corpus," which itself would ultimately provide revenue.

o The need for a new public focal point in government to administer the Fund, and perform other functions to advance parks, recreation and leisure. An entity similar to the National Foundation for the Arts and Humanties, and its associated endowments should be considered.

This concludes our prepared remarks. I would be pleased to respond to questions.

The CHAIRMAN. Thank you very much, Mr. Tindall.

I would be interested in getting your specific comments on how you would want that formula changed, and we would like to have those conversations, either in writing or contact us. And we would like to have that.

Mr. TINDALL. I might just add as a footnote, Mr. Chairman, that I believe you stated at the outset of this hearing that consideration of this bill does not preclude further, and we hope timely, consideration of the Land and Water Conservation Fund and the many recommendations of the President's Commission.

The CHAIRMAN. Exactly.

Mr. TINDALL. We would reinforce our belief that that should occur and other dimensions should be looked at.

The CHAIRMAN. Yes, I would, if I have my way—and I may not on this—I would like to pass this bill early on and just pretermit so many of those questions about the Outdoor Commission, because it would take a long time to do that.

We will have the time, but I would like to put this bill in place if we can and then just forget about the fact that this bill was ever passed as we consider ANWR. To me, the worst thing would be to first pass ANWR and then come and then try to put this bill in place.

You may think it is an easy thing to do, but I think it would be just absolutely impossible. I mean, you try to get a few bucks for anything out of that budget when you are fighting against other priorities and it is just virtually impossible.

So if we put this bill in place, then we can come back later on at our leisure and look at what we do with the recommendations of the Great Outdoors Commission and the Land and Water Conservation Fund and all the rest of those things.

But thank you very much for your suggestions.

[Subsequent to the hearing Mr. Tindall submitted the following:]

National Recreation and Park Association

July 27, 1982

The Honorable J. Bennett Johnston
Chairman
Committee on Energy and Natural Resources
United States Senate
Washington, DC 20510

Dear Senator Johnston:

We appreciate the invitation during the hearing to follow up with specific proposed amendments to S.735, a bill to amend the Land and Water Conservation Fund. The proposed amendments would implement our two central recommendations: that all receipts from energy activities on refuges go directly to conservation and recreation purposes, and that state and local governments share in the resulting reinvestment program.

We recommend the following:

Amend page 2, lines 2-7 to read:

"issued after the date of enactment of this title shall be deposited in the Fund."

Amend page 2 by striking lines 4-7.

Amend page 2, line 12 by striking $160,000,000 and inserting in lieu thereof $400,000,000.

Amend page 2, lines 15-18 to read as follows:

"(2) Forty percent of the (f)unds deposited into the special account shall be available, without further appropriation, for Federal purposes as provided in Section 7 of this Act and shall be allocated in accordance with this title. Sixty percent of the funds deposited into the special account shall be available, without further appropriation, to the States and through the States local governments as provided in Section 6 of this Act."

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Amend page 7, line 21 to read as follows:

"Federal portion of (f)unds from the special account in accordance with the priority."

We will, of course be pleased to work with staff to further to discuss our recommendations.

Sincerely,

Perry C. Tindall
Director of Public Affairs

cc Hon. Dale Bumpers
Hon. Malcolm Wallop

Marked to indicate amendments proposed by National Recreation and Park Association.

II

100TH CONGRESS
1ST SESSION

S. 735

To amend the Land and Water Conservation Fund Act of 1965, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 12, 1987

Mr. JOHNSTON introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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A BILL

To amend the Land and Water Conservation Fund Act of 1965, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Land and Water Conservation Fund Act of 1965, as amended, is further amended by adding the following new title:

"TITLE III—SPECIAL ACCOUNT

"SEC. 301. (a) Notwithstanding any other provision of law, all revenues received from competitive bids, sales, bonuses, royalties, rents, fees, interest charges or other income derived from the leasing of oil and gas resources within units

of the National Wildlife Refuge System pursuant to leases issued after the date of enactment of this title shall be ~~distributed as follows:~~ deposited in the Fund.

~~"(1) 50 per centum to the State in which the refuge unit is located;~~

~~"(2) 25 per centum deposited into the fund; and~~

~~"(3) 25 per centum to miscellaneous receipts in the Treasury.~~

"(b)(1) Moneys deposited into the fund pursuant to subsection (a) shall be credited to a special account within the fund. In addition, there shall also be deposited into this special account, ~~$160,000,000~~ $400,000,000 per annum to be derived from those moneys comprising the authorized but unappropriated balance of the fund.

"(2) ~~Funds~~ Forty percent of the funds deposited into the special account shall be available, without further appropriation, for Federal purposes as provided in section 7 of this Act and shall be allocated in accordance with this title. Sixty percent of the funds deposited into the special account shall be available, without furthur approoriation, to the States, and through the States, local goverment as provided in section 6 of this Act.

"SEC. 302. (a) At the time of the submission of the President's budget, each Federal land managing agency eligible to receive moneys from the fund shall provide the Committee on Appropriations of the United States House of Representatives and the United States Senate with a list, in descending order of priority, of land acquisition projects (hereinafter in this title referred to as the 'priority list').

"(b) The priority lists shall be prepared by the Directors of the Bureau of Land Management, National Park Service, Fish and Wildlife Service, Department of the Interior, and the Chief of the Forest Service, United States Department of Agriculture, and shall reflect their best professional judgment regarding the land acquisition priorities of such bureau or agency.

"(c) In preparing such lists the following factors shall be considered: the amount of money anticipated to be made available in any one year; the availability of land appraisal and other information necessary to complete the acquisition in a timely manner; the potential adverse impacts on the park, wilderness, wildlife refuge or other such unit which might result if the acquisition is not undertaken; and such other factors as the land managers deem appropriate.

"SEC. 303. (a) The Secretary of the Treasury shall notify the Appropriations Committees of the Congress on an annual basis as to the amounts available for allocation within the special account established pursuant to this title.

"(b) The Appropriations Committees shall allocate the Federal portion of funds from the special account in accordance with the priority lists submitted pursuant to section 302(a) unless such lists are specifically modified in appropriation Acts or reports accompanying such Acts.

"(c) In allocating funds from the special account among land managing agencies the Appropriations Committees shall ensure that each agency receives a fair and equitable share in accordance with land acquisition needs, congressional directives, and historical patterns of distribution of the fund: *Provided*, That no agency shall receive more than 50 per centum of the funds available from the special account in any one year.

"(d) In the event that the Appropriations Committees fail to allocate the funds from the special account, the Secretary of the Treasury is authorized and directed to make such funds directly available to the land managing agencies to be used solely for land acquisition projects on the respective priority lists in accordance with the following formula:

"40 per centum to the National Park Service;

"40 per centum to the Fish and Wildlife Service;

"15 per centum to the Forest Service; and

"5 per centum to the Bureau of Land Management.".

○

The CHAIRMAN. Mr. Jarvis with the National Park and Conservation Association.

STATEMENT OF T. DESTRY JARVIS, VICE PRESIDENT, CONSERVATION POLICY, NATIONAL PARKS AND CONSERVATION ASSOCIATION

Mr. JARVIS. Thank you, Mr. Chairman. I will summarize my statement very briefly.

We have three essential concerns about S. 735. The first is the relationship of this legislation to a comprehensive revitalization of the Land and Water Conservation Fund. The second is its single agency focus, the provision in the bill that relates to revenue capture from refuge leasing; and the third is the potential impact on the management of the national wildlife refuge system.

Separating the two provisions of your bill, I would say that we appreciate your desire to resolve the unmet need for land acquisition. We share that concern and we want to work with you to arrive at a mechanism to do that.

We support the concept behind the $160 million earmarked floor in an acquisition program, but feel that that should be considered in the context of a more full, more comprehensive review of the whole land and water fund program and its revitalization along the lines that the President's Commission suggested.

You have in your files a letter from a coalition of conservation, recreation, and historic preservation groups, of which my association is one, that recommends a series of things that might be done, of which such a floor automatic fund would be one element.

We think it should be considered in the context of the broader revitalization of the fund.

Second, I would say with regard to the single agency focus of the refuge provisions in the bill, I would cite a General Accounting Office report of June of 1984. If you recall at the time, throughout much of 1983 former Secretary of Interior Watt was hell-bent to lease the wildlife refuges without much regard to criteria.

The Congress got very concerned, passed on the continuing resolution that year a provision halting any refuge leasing until the Department developed an EIS and a comprehensive set of regulations.

Secretary Clark then as he came in as the new Secretary of the Interior issued a policy statement that there would be no more leasing on units of the wildlife refuge system, and therefore the Department was not going to do the regs and the EIS.

And that policy is still in effect today under Secretary Hodel.

The CHAIRMAN. And there is certainly no intent to change that policy.

Mr. JARVIS. I understand that.

As of the date of this GAO report, the GAO says that about $7 million in revenues from oil and gas receipts were collected in fiscal 1983 from 13 units of the wildlife refuge system. About $4.5 million of that $7 million came from the Kenei refuge in Alaska.

Currently, Kenei is the only refuge in Alaska that is leased. Other refuges that are currently under this leasing program—the Delta National Wildlife Refuge in your state of Louisiana produces

about $2 million in revenue at present, and the Aransas refuge in Texas, the Salt Plains refuge in Oklahoma, Kavira Refuge in Kansas, John Clark Saylor refuge in North Dakota, are among the others that have ongoing oil and gas activities.

Nevertheless, the total of that coupled with the prospects, as this report cites, it is unlikely to see significant increases in economic uses of refuges, and the policy of the Department indicates to us as long as the focus remains on the refuge system, a very small amount of money potentially.

We would suggest that if the Congress is going to consider the policy of capturing revenues from the leasing of public lands that the first priority ought to be on capturing revenues, dedicating them to conservation purposes, from the leasing on national forest and BLM public lands which operate under a multiple use regime, rather than a dedicated or primary purpose, as do refuges and parks.

So that the parallel philosophy with the existing fund, that is as you use up one public resource, the OCS oil and gas, a portion of the proceeds from that be dedicated to conservation purposes—we think we see a direct parallel with the forest and Bureau of Land Management public lands, similar to the OCS program as it now exists, but feel that the primacy that is placed in wildlife refuges upon wildlife protection, habitat protection—and this gets into our third area of concern—would put some undue pressure on the refuge manager.

I recognize that your intent is not to do that. The Congressional intent would likely not be to do that. Nevertheless, we have seen the Department impose performance standards on its managers to produce revenues, and that is—at one time a couple of years ago, park superintendents were judged, their performance evaluation was based on their revenue enhancement performance.

The CHAIRMAN. There is certainly no intent to do that here. In fact, most of the outlook for this is ANWR.

Mr. JARVIS. I would just conclude, Mr. Chairman, by saying that with a policy of no leasing on refuges and with the desire for a comprehensive review of the land and water fund, we suggest that you hold S. 735 in abeyance, or at least separate the two concepts while a more comprehensive view is taken.

And we would be happy to work with you on that.

[The prepared statement of Mr. Jarvis follows:]

STATEMENT OF OF T. DESTRY JARVIS
VICE PRESIDENT, CONSERVATION POLICY
NATIONAL PARKS AND CONSERVATION ASSOCIATION

BEFORE THE

COMMITTEE ON ENERGY AND NATURAL RESOURCES
U.S. SENATE

ON S.735

JULY 14, 1987

Good afternoon Mr. Chairman and Members of the Committee. I am T. Destry Jarvis, Vice President for Conservation Policy of the National Parks and Conservation Association (NPCA). I appreciate this opportunity to testify today on behalf of the National Parks and Conservation Association, American Rivers, Inc., Defenders of Wildlife and the Humane Society of the United States regarding S.735. While we have all been ardent advocates of the Land and Water Conservation Fund, we do have some serious reservations about this bill, as written, which I would like to share with the Committee today.

As introduced, S.735 would give twenty-five percent of "...all revenues received from competitive bids, sales, bonuses, royalties, rents, fees, interest charges or other income derived from the leasing of oil and gas resources within units of the National Wildlife Refuge System..." to a special account within the Land and Water Conservation Fund. This special account would also receive $160 million annually from the authorized, but unappropriated, balance of the Fund. This money would be made available without appropriation to federal agencies receiving revenue from the current Fund based on a priority ranking of acquisition needs unless the priorities are modified by the Appropriations Committees and/or the Committees take affirmative action to appropriate the funds.

National Parks and Conservation Association
1015 Thirty-First Street, N.W., Washington, D.C. 20007
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We have three major concerns about this bill upon which I would like to elaborate today. These are: 1) its relation to other proposed legislation to expand and reauthorize the Land and Water Conservation Fund; 2) its single-agency focus; and 3) its potential impact on management of national wildlife refuges.

As you know, we are members of a coalition working to expand and reauthorize the Land and Water Conservation Fund. We have invested a great deal of time studying the current problems with the Fund and have attempted to devise alternative strategies to ensure that the Fund lives up to its potential. We appreciate your concern for and commitment to securing additional revenue for land protection for the Land and Water Conservation Fund. However, we do not believe that this bill is adequate to the task of rejuvenating the Fund. The principal problem with the current fund does not relate to a lack of revenue flowing into the fund--as evidenced by its $5 billion authorized, but unappropriated balance--but to the outflow of funds. If the current authorization level is to be retained, we see no reason to seek out new or additional sources of funds. The problem with which we are faced today is establishing a mechanism which will ensure that the authorized money is actually spent to acquire critical conservation and recreation lands. Recovering funds from existing or future leasing on national wildlife refuges as a supplement to LWCF will not solve this major problem.

Further, revenue from leasing of national wildlife refuges is likely to be a drop in the bucket compared to the total authorized level of the Land and Water Conservation Fund. A 1984 General Accounting Office study, "Economic

Uses of the National Wildlife Refuge System Unlikely to Increase Significantly," found that oil and gas operations on national wildlife refuges generated approximately $7 million in 1983. Presently a portion of this money is returned to the general treasury to be shared with states under the Mineral Leasing Act and a portion returned to refuges to repay expenses incurred in leasing or given to counties in which refuges are located as a payment in lieu of taxes. We have refrained from considering the special case of the Arctic National Wildlife Refuge in our testimony. Even if oil and gas leasing were to increase dramatically on other national wildlife refuges in the System in future years, we do not believe that sufficient revenue would be generated to compensate for the broader concerns we have outlined below.

Second, if as a matter of national policy, the Congress determines that it would be appropriate to tap revenues from on-shore mineral leasing and extraction, then it is our view that this policy should be put in place first on general public lands administered by the Bureau of Land Management and the U.S. Forest Service. On these lands, there is an inherent bias to lease, just as there is on the Outer Continental Shelf. While resource conflicts do exist on these lands, they are administered primarily for multiple uses. Tapping revenues derived from leasing on these lands and dedicating these revenues for conservation purposes would parallel the philosophy behind the current LWCF program which taps OCS leasing revenue. Still, additional revenue from on-shore leasing need only be considered in a scenario which contemplates a vastly enlarged LWCF, requiring new funding sources.

Finally, we have reservations about the impact of this bill on current and future management decisions involving leasing of national wildlife refuges. We

are concerned about the potential effects of this bill on the outcome of the Arctic National Wildlife Refuge debate, however, our concerns extend more broadly to the impacts on national wildlife refuges nationwide. The 90 million acres in the National Wildlife Refuge System were established as refuges for the protection and conservation of fish and wildlife and the preservation of wildlife habitat. Enactment of S.735 would undermine this primary purpose of refuges by creating an incentive to lease refuge lands. According to their legislated purpose, refuges, like units of the national park system, have a primary purpose against which all other uses must be tested objectively. Secondary uses including oil and gas extraction are allowed in refuges only when a determination can be made that "such uses are compatible with the major purposes for which such areas were established." (16 U.S.C. 668dd(d)(1)).

This test of compatibility is extremely important. The GAO study found that current "compatible" uses are indeed creating management conflicts for national wildlife refuges. [p.13] Further, the study concluded on page 29 that the Fish and Wildlife Service does not have adequate data to effectively monitor and control oil and gas operations on refuge lands: "Our analysis...indicated that refuge managers believe oil operations have sometimes caused serious damage to refuges; but these impacts are difficult to measure." [p.23]

In undertaking a determination of compatibility, increased leasing might be more likely to occur at the expense of high quality resources if managers knew that leasing revenue could be applied toward land acquisition. Agency priorities and policy decisions are often controlled by budget and staffing needs. A proposed program which offers additional revenue from sources within an agency's management discretion is likely to become a priority. "We can get

the money to buy parcel X if we lease more land on parcel Y," could easily become the prevailing attitude. In national wildlife refuges this might result in less weight being placed on the environmental effects of leasing and associated activities in the drive to increase revenue, particularly in response to pressures from OMB and other sources within the Administration. Leasing might occur more often even in situations where professional judgements of wildlife managers indicate that it would be undesirable or incompatible with the wildlife protection mandate of the Fish and Wildlife Service -- thus undermining the purposes for which the System was created.

For these reasons, we regret that we must oppose further consideration of S.735. We appreciate this opportunity to present our views on this bill and we will be glad to continue working with you to design a new Land and Water Conservation Fund.

The CHAIRMAN. Well, let me say I appreciate your comments. They are logical, they are considered. The only problem is I am trying to deal with the art of the possible, and the art of the possible is we have got a train that may or may not leave the station.

And that is, the train is named ANWR. And if that train goes out without you, you are never going to be able to get a ride on it again.

There are some who would say do not buy a ticket because that may make more likely the fact that the train leaves. I do not think so, but if you do not have the ticket you are not going to be able to come in and cash it in later.

As you know, this ANWR, if it is put in place, we can come in and we can say, well, we ought to have the Great Outdoors Commission and we ought to have a comprehensive statement and all of that, and you will just be tap dancing because OMB will be saying no to everything you say and you will never be able to get that revenue again.

I want to get it while it is possible.

But aside from that, I appreciate your concerns.

Mr. JARVIS. I am sure you are concerned about OMB's willingness to seriously implement this or any other acquisition program.

The CHAIRMAN. OMB would have no choice on this, you see, because it is automatic. That is the distinguishing feature of this. This is no Land and Water Conservation Fund that is just written in the sky somewhere, that fades with the first cloud bank.

This is automatic. That money comes automatically, and you have to repeal the law in order to stop the flow of money.

Thank you.

Tim Mahoney of the Sierra Club.

STATEMENT OF TIM MAHONEY, WASHINGTON REPRESENTATIVE, SIERRA CLUB AND CHAIRMAN, ALASKA COALITION

Mr. MAHONEY. Thank you, Mr. Chairman.

I am Tim Mahoney, Washington Representative of the Sierra Club and Chairman of the Alaska Coalition. I will not repeat a lot of our earlier discussions from our hearing on the Arctic Wildlife Refuge in June.

I would like to endorse what Mr. Jarvis had to say about the impacts that such legislation may have on other units of the Fish and Wildlife Refuge, Wildlife Refuge System. We do not know, really, what those impacts are.

Mr. Horn did not today have a very comprehensive idea of what the impacts might be. But I think we would be very leary of budgetary pressures being leveled at wildlife refuge managers.

But let me just briefly discuss our position, as a group of people who do not want the train to go on ANWR and do not want to buy a ticket and do not want anyone else to buy a ticket, either.

We respect and appreciate——

The CHAIRMAN. We want to reserve your rights to dynamite the tracks if you can. [Laughter.]

Mr. MAHONEY. We hope that you will be persuaded to protect the Arctic Coastal Plain as a part of the wilderness system, and that there will be no revenue that would ever accrue under a system

like S. 735. We are concerned that the possibility of such revenues does affect the political debate.

This year we have already fielded concerns from the Budget Committee in both houses, who are concerned and somewhat excited about possible revenues from leasing the Arctic Coastal Plain.

We cannot eliminate that from the debate, but to the greatest extent possible we want the Congress to concentrate on the fact that this is a de facto wilderness, it is in a wildlife refuge, and it is in a state and a part of America's coastline where every other portion of our coastline has been devoted to oil and gas development.

But I would also point out that, while the projected revenues from bonuses and leases may be very great, they might be a one year windfall. The odds on finding no significant oil in the Arctic refuge are 81 percent, according to the Department of Interior. The odds on there not being another Prudhoe Bay there are 99 percent, according to the Department of the Interior.

But the loss of the wilderness would be permanent, and we are chilled by Mr. Horn's suggestion that this really is the only place that he could conceive of S. 735 applying. And we are concerned that the oil industry representatives, which would not have to pay any more for the leases as a result of S. 735, would use a bill like S. 735 to try to persuade the public that the mitigation of additional revenues to the Fish and Wildlife Service, to the other land managing agencies, would justify opening this important area.

Thank you.

[The prepared statement of Mr. Mahoney follows:]

STATEMENT OF TIM MAHONEY
WASHINGTON REPRESENTATIVE, SIERRA CLUB
AND CHAIRMAN, ALASKA COALITION
BEFORE THE
SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES
CONCERNING S. 735

July 14, 1987

Mr. Chairman and members of the Committee:

I am Tim Mahoney, Washington Representative of the Sierra Club and Chairman of the Alaska Coalition. The Alaska Coalition consists of eighteen organizations which seek legislation to protect the coastal plain of the Arctic National Wildlife Refuge as wilderness and which oppose legislation which would direct the Secretary of Interior to lease the coastal plain for possible oil and gas development. The Alaska Coalition opposes S. 735, as introduced.

The bill as introduced provides a mechanism whereby twenty-five percent of "all revenues received from competitive bids, sales, bonuses, royalties, rents fees, interest charges or other income derived from the leasing of oil and gas resources within units of the National Wildlife Refuge System" shall be deposited into a special account within the Land and Water Conservation Fund.

Furthermore, $160 million of proposed wildlife refuge energy revenues shall be available to the Secretary of the Treasury without appropriation (if the Congress fails to appropriate) for acquisition projects of the four federal land managing agencies.

We are concerned that the narrow focus of S. 735 on wildlife refuge development could be used as an inducement to offer oil and gas leases in refuges where fish and wildlife professionals would not find such activity desirable or even compatible with wildlife protection goals. Under current law, these public trust lands are acquired and managed with an understanding that they are neither self-funding nor managed for a high dollar return; they are managed for fish and wildlife resources.

These pressures could affect land use decisions within the Fish and Wildlife Service, an agency which has historically struggled for budget dollars. Or it could be used by an Administration sympathetic to energy interests but insensitive to wildlife or wilderness resources to "sell" an unwise energy development program to a skeptical public. Or most probably, the Office of Management and Budget, within the budgetary process, could try to push the agency into developing its lands so that other LWCF spending could be averted.

Specifically, S. 735 would affect the debate most greatly over the fate of Alaska's Arctic National Wildlife Refuge. This refuge is the only land on Alaska's North Slope not devoted to or available to energy production. The coastal plain, first established as part of the Arctic Wildlife Range in 1960, is a spectacularly beautiful area of arctic tundra wedged between the Brooks Range and the Beaufort Sea.

We have compared this de facto wilderness with Africa's Serengeti Plain because it is habitat for an undisturbed ecosystem dominated by a giant herd of migratory caribou, and complete with the predators such as wolves, wolverines, and grizzly (brown) bears. It is also home to related arctic animals such as polar bears, and migratory waterfowl. The U.S. Fish and Wildlife Service calls the Arctic National Wildlife Refuge "the only conservation system unit that protects, in an undisturbed condition, a complete spectrum of the arctic ecosystems in North America." (Arctic Refuge Resource Assessment, page 46). The

Service calls the coastal plain (1002 area) "the most biologically productive part of the Arctic Refuge for wildlife and...the center of wildlife activity." (page 46) These two factors make the coastal plain unique and irreplaceable among all other areas.

West of the Arctic NWR are 7 million acres of state lands where Prudhoe Bay and other oilfields are on line. To the west of the state lands is the National Petroleum Reserve. Offshore, along the 1100-mile coastline, are both federal and state leasing programs in the Beaufort Sea.

We are convinced that leasing the coastal plain of the Arctic Refuge will destroy the wilderness and will result in irrevocable environmental impacts on this last undisturbed arctic ecosystem. According to the Department of the Interior, the odds on not finding a significant oil find are 81%. The odds on a Prudhoe Bay-size find are 1%.

Whether or not S. 735 were enacted would make no difference in the bonuses, fees, or royalties which might be paid by petroleum companies to the federal government. While these interests would not be adversely affected, they would use such a fund distribution arrangement as an argument with the public and with the Congress that the monies diverted to the LWCF would act as "mitigation" for the environmental impacts of development of the coastal plain.

We believe that the fundamental question facing Congress in the Arctic Refuge is whether one parcel of land along America's Arctic coast shall remain an undisturbed and vital wilderness or whether it, too, will join the other 50 million acres of land on- and offshore which are devoted by federal and state law to petroleum development.

Proponents of development try not to face the black and white nature of wilderness protection but rather to frame the argument in terms of game management and mitigation as if protection of an undisturbed ecosystem is not very important to the debate or the decision.

Given that the Arctic Refuge is not yet well known to the American public, arguments of financial benefits to other unrelated parks, refuges and forests will serve to aid development proponents not only in suggesting further "mitigation" but also in their attempts to blur the issues facing the Congress.

We hope that the Congress will study the issues surrounding the future of the Arctic Refuge thoroughly and decide the wilderness/development issue on its own merits apart from arguments on revenue.

We hope this Committee will not proceed with S. 735 as introduced or other legislation which might adversely alter the debate over the future of the Arctic Refuge.

Thank you for this opportunity to testify.

The CHAIRMAN. Thank you very much, Mr. Mahoney.

Next we have Lonnie Williams, Vice President of the Wildlife Management Institute.

STATEMENT OF LONNIE L. WILLIAMSON, VICE PRESIDENT, WILDLIFE MANAGEMENT INSTITUTE

Mr. WILLIAMSON. Thank you, Mr. Chairman.

There are several things about S. 735 that we support, one of course being the dedicated source of funding for the Land and Water Conservation Fund activities. However, in our view the problem with the Land and Water Conservation Fund at present is not the pipe that is going into the top of the fund, but it is an impediment in the spigot coming out the bottom.

And therefore, we would oppose the use of revenues from the exploitation of oil on natural wildlife refuges for Land and Water Conservation Fund purposes. We suggest that, however, that we not miss the train, as you say, and that the national wildlife refuge oil and gas revenues, if there will be any substantial amounts in the future, would serve more logically to finance programs that are directly and completely related to the purposes for which that refuge system was established.

As an alternative, we would recommend that the Committee support investing future oil and gas revenues into financing such things as a North American waterfowl management plan, implementing the Fish and Wildlife Conservation Act of 1980, paying in lieu taxes to county, borough, and parish governments, and serving other purposes of the refuge system.

One way that we would suggest be considered to do that is, instead of directing any future moneys that might come as a result of oil and gas development to the Land and Water Conservation Fund, is to direct it into the migratory bird conservation fund, where special accounts, if the Congress so chooses, could be set up whereby the various programs related to the national wildlife refuge system could be considered for financing or could be financed from.

And some of these big ticket items, such as you well know, the North American waterfowl management plan, there is going to have to be some kind of windfall, as what one might anticipate from an oil and gas exploration, before these kinds of things can ever be funded, especially in today's climate that you gentlemen have to live with as far as the budget is concerned.

Thank you.

[The prepared statement and a subsequent submittal from Mr. Williamson follow:]

Wildlife Management Institute

Dedicated to Wildlife Since 1911
Suite 725, 1101 14th Street, N.W.
Washington, D.C. 20005
202/371-1808

Statement of Lonnie L. Williamson
before the
Senate Committee on Energy and Natural Resources
on
S. 735 (Amendment to the Land and Water Conservation Fund Act)

July 14, 1987

Mr. Chairman:

I am Lonnie L. Williamson, vice-president of the Wildlife Management Institute. Headquartered in Washington, D.C., the Institute is staffed by professional resource managers and has been dedicated since 1911 to the restoration and improved management of wildlife. We appreciate the opportunity to present our views on S. 735.

The Institute supports language in S. 735 that would establish a dedicated source of financing for federal Land and Water Conservation Fund activities. We also appreciate the provision that would require recipient federal agencies to maintain "priority lists" of lands that they need to acquire for improving their programs. And, we agree with the idea that funds from the unappropriated balance of LWCF be made available for land acquisition purposes. However, we oppose the use of revenues generated by resource exploitation on national wildlife refuges for LWCF purposes.

The National Wildlife Refuge System, as well as other programs which support the purposes of that system, is in dire need of financial support. For example, funds have not been generated in recent years for the System to pay more than about half of its in-lieu tax debt to county, parish and borough governments. This situation creates antagonism toward existing refuges and future refuge system expansion. The need to acquire wetlands and other areas

for migratory birds and endangered species far exceeds available funds. The North American Waterfowl Management Plan, which has been signed by the U.S. and Canada, must be expedited if this continent's waterfowl and associated nongame species are to survive in appreciable numbers. The Fish and Wildlife Conservation Act of 1980, a statute aimed specifically at preserving the nation's nongame wildlife, has never been funded.

We suggest that national wildlife refuge oil and gas revenues would serve more logically to finance these programs which are directly and completely related to the purposes for which the refuge system was created. After all, refuges are wildlife lands, and any habitat degradation that may occur from oil and gas development on those areas is particularly damaging to migrating wildlife nationally and internationally. Thus, using revenues generated from refuge petroleum extraction to enhance the country's wildlife seems most appropriate.

Therefore, we urge that refuge revenues not be separated in large part from the refuge system by diverting them to the Land and Water Conservation Fund. As an alternative, we recommend that the Committee support investing future refuge oil and gas revenues into financing the North American Waterfowl Management Plan, implementing the Fish and Wildlife Conservation Act of 1980, paying in-lieu taxes to county, borough and parish governments and serving other purposes supportive of the refuge system.

We suggest that the Committee consider melding S. 735 with a subsequently introduced bill, S. 1338. The result could establish a dedicated $1 billion Land and Water Conservation Fund from offshore oil lease receipts and possibly taxes on large real estate transfers and conservation bonds as recommended in S. 1338.

Mr. Chairman, we applaud and support the Committee's effort to assure financing for the Land and Water Conservation Fund during these difficult budgetary times.

Wildlife Management Institute
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LAURENCE R. JAHN
President
LONNIE L. WILLIAMSON
Vice-President
DANIEL A. POOLE
Board Chairman

July 16, 1987

The Honorable J. Bennett Johnston, Chairman
Committee on Energy and Natural Resources
United States Senate
Washington, D.C. 20510

Dear Senator Johnston:

This letter responds to your request for specific suggestions on legislation to redirect future national wildlife refuge oil and gas revenues.

We agree with your assessment that a mechanism for distributing some of the refuge oil and gas revenues to land acquisition and management programs should be enacted before a decision is made on developing Arctic National Wildlife Refuge petroleum. However, we feel strongly that such revenue ought to be invested in wildlife restoration and enhancement which support refuge system purposes, rather than goals of the Land and Water Conservation Fund.

As I mentioned at the hearing, LWCF's problem is not a lack of funding going into the program. Instead, it is the absence of a trust arrangement whereby the $900 million per year from offshore oil leasing and other sources is isolated and automatically made available to state and federal agencies. Your provisons in S. 735 to create a "special account" with guarantees of appropriation or allocation would fill that need, and we urge you to pursue such a refinement for LWCF.

With regard to refuge oil and gas receipts, we recommend that legislation be considered to accomplish the following:

A) Establish a "special trust fund" in the Migratory Bird Conservation Account (MBCA);

B) Distribute all revenues received from competitive bids, sales, bonuses, royalties, rents, fees, interest charges or other income derived from oil and gas leasing within the National Wildlife Refuge System as follows:

(1) 50 percent to the state in which the refuge is located;

(2) 40 percent to the MBCA "special trust fund";

(3) 10 percent to the federal treasury.

C) Establish a per-barrel access fee for oil, and a comparable amount for gas, taken from refuges, with all of the receipts deposited directly into the MBCA trust fund.

D) Instruct the Migratory Bird Conservation Commission and the U.S. Fish and Wildlife Service to divide the "special trust fund" into three accounts with:

(1) 50 percent of the fund dedicated to implementing the North American Waterfowl Management Plan. Authority should be given to the U.S. Fish and Wildlife Service for investing a portion of the funds in Canada, as required by the Plan. When the plan is fully implemented, any monies accruing to the account should revert automatically to normal land acquisitions approved by the Migratory Bird Conservation Commission;

(2) 35 percent of the fund dedicated to implementing the Fish and Wildlife Conservation Act of 1980 and transferred to the Federal Aid Division in the U.S. Fish and Wildlife Service for that purpose;

(3) 15 percent of the fund dedicated to implementing the Service's refuge fisheries management plan;

(4) An equal percentage of all three accounts in the fund debited annually and deposited in the National Wildlife Refuge Fund to the extent needed for completing in-lieu tax payments to counties.

As reported at the June 14 hearing, these programs are in desperate need of financing and are directly related to the purposes of the refuge system. We would be honored to assist with devising a program such as recommended above.

Best regards.

Sincerely,

Lonnie Williamson

Lonnie L. Williamson
Vice-President

LLW:dt

The CHAIRMAN. Thank you, Mr. Williamson.

And let me repeat again that, if we enact 735 into law, it would be my intention to come back and have that comprehensive review that we have talked about as to that all of these uses. And as a strong supporter of waterfowl management, I would certainly want very carefully to consider your recommendations as to that.

Finally, we have Jack Berryman, Executive Vice President of the International Association of Fish and Wildlife Agencies.

STATEMENT OF JACK H. BERRYMAN, EXECUTIVE VICE PRESIDENT, INTERNATIONAL ASSOCIATION OF FISH AND WILDLIFE AGENCIES

Mr. BERRYMAN. Thank you, Mr. Chairman.

First, I want you to know our Association is ready to work with the members of the Committee and others to assure reauthorization of the Land and Water Conservation Fund and the amendments that will increase the fund's capability for the acquisition of needed lands.

We are very supportive of the concept of establishing an automatic appropriations mechanism that will utilize the unexpended funds. Also, we are supportive of the idea of the federal agencies maintaining priority lists.

Now, we do not agree with the proposal to take revenues from the refuge system and make them available to other federal agencies for land acquisition, for the reasons Mr. Williamson just stated.

The refuge system has vast unmet needs. In addition, there is great need to support the North American waterfowl management plan, and we, along with others, have made suggestions on the uses of funds that might become available if the Arctic National Wildlife Refuge is indeed opened to exploration.

And it is our strong belief that a very significant portion of these revenues should be dedicated to the purposes for which the national wildlife refuge system was founded, and this includes the North American waterfowl management plan, the development of fishing opportunities on the refuges, and funding for the Non-Game Act.

And a copy of that statement is submitted for the record.

If I may, finally, we just appreciate the opportunity to comment and we look forward to working with you, subject to the concerns we have expressed.

Thank you, sir.

[The prepared statement of Mr. Berryman follows:]

International Association of Fish and Wildlife Agencies
(Organized [illegible] 1902)
STREET LOCATION: 1325 Massachusetts Av., N.W. (202) 639-8200
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Jack H. Berryman, Executive Vice President

STATEMENT OF THE INTERNATIONAL ASSOCIATION OF FISH AND WILDLIFE AGENCIES
BEFORE THE SENATE COMMITTEE ON ENERGY & NATURAL RESOURCES
ON AMENDMENT TO THE LAND AND WATER CONSERVATION FUND (S. 735)
July 14, 1987
by
Jack H. Berryman, Executive Vice-President

The International Association of Fish and Wildlife Agencies, founded in 1902, is a quasi-governmental organization of public agencies charged with the protection and management of North America's fish and wildlife resources. The Association's governmental members include the fish and wildlife agencies of the states, provinces and federal governments of the U.S., Canada, and Mexico. All 50 states are members. The Association has been a key organization in the promotion of the principles of sound resource management and the strengthening of federal, state and private cooperation in protecting and managing fish and wildlife and their habitats in the public interest.

The Association is pleased to have the opportunity to comment on a proposed amendment to the Land and Water Conservation Fund. The Fund has been a valuable and important tool for acquisition of federal and state public lands. Much of these lands have benefitted fisheries and wildlife by protecting much needed habitat.

The Association is pleased that members of Congress are supporting the continued acquisition of lands and waters for the benefit of fish and wildlife and the millions of Americans that continue to enjoy these public resources in various ways. The several bills that seek to

reauthorize and/or amend the Land and Water Conservation Fund are ample proof of the interest of many members. The Association is ready to work with members of this Committee and others to assure reauthorization of the Land and Water Conservation Fund and amendments that will increase the Fund's capability for acquisition of needed lands.

We are especially supportive of the concept of establishing an automatic appropriation mechanism that will utilize unexpended LWCF funds; also to require federal agencies to maintain "priority lists" of lands they consider necessary for program involvement.

The Association does not agree with proposals to take revenues from the refuge system and make them available to other federal agencies for land acquisition. The refuge system has vast unmet needs for operation and maintenance. The system also needs expansion to meet the goals of wetland preservation, as well as the needs of the North American Waterfowl Management Plan. The National Wildlife Refuge System is enjoyed by all citizens and in many different ways. It serves the needs of public resources and is indeed a national heritage.

Further, this Association, and several others, have already made suggestions on uses of funds that would be available if the Arctic National Wildlife Refuge, which offers the only significant opportunity for revenues, is opened to exploration. A significant portion of those revenues should be dedicated to the purposes for which the National Wildlife Refuge was founded, including: funding of the North American

Waterfowl Management Plan; expansion of the National Wildlife Refuge System; enhancement of the refuge fishery program; and additional funding of fish and wildlife management programs, including the Fish and Wildlife Coordination Act. A copy of that statement is attached for the record.

We appreciate this opportunity and commend the Committee for its efforts to assure continuation of this important source of funding. The Association will be considering the several proposals that relate to refuge revenues at its annual meeting in September.

Thank you.

ACCOMMODATING FISH AND WILDLIFE NEEDS FROM POTENTIAL ENERGY RESOURCE DEVELOPMENT
ON THE ARCTIC NATIONAL WILDLIFE REFUGE
-AN OPPORTUNITY-

The Arctic National Wildlife Refuge (ANWR) is one of the largest wildlife refuges in the world. In addition to its abundant and valuable fish and wildlife resources, ANWR may also contain very large reserves of oil and gas resources.

This brief statement represents the collective perspective of several natural resource conservation/professional organizations, whose representatives recognize that assessing the national need for energy reserves that may be under the Arctic Coastal Plain is not within their collective expertise. Within these organizations, however, considerable insight and expertise exist on the needs and management of fish and wildlife resources of the Arctic Coastal Plain, as well as other areas of this Nation.

ANWR is a unique and significant part of the world's most advanced wildlife refuge system. The National Wildlife Refuge System was established to meet the immediate needs for migratory waterfowl at a difficult time; it also looked to the future of a wide variety of fish and wildlife resources.

A decision to open ANWR to oil and gas development should not be taken unless the adverse impacts on the refuge's fish and wildlife resources are minimized and unless a substantial portion of the revenues generated are used for fish and wildlife enhancement.

If the Congress determines that exploration and extraction on ANWR are in this Nation's best interest, the resulting revenues must contribute to fish and wildlife conservation. There are several valuable needs that must be served from the various revenues that may be generated. Quite simply, we believe that a reasonable portion of the revenues must be identified for fish and wildlife management purposes.

The foremost need is to further the purpose of the National Wildlife Refuge System. Needs in this arena include:

1. Funding of the North American Waterfowl Management Plan. This plan represents several decades of effort by the United States Fish and Wildlife Service, the Canadian Wildlife Service, state fish and wildlife agencies and cooperating organizations. It is a comprehensive statement of needs for viable waterfowl populations. It identifies needed research and survey work, but most importantly, stresses that acquisition of important habitats is a top priority for the migratory waterfowl resource of this continent.

2. Expansion of the National Wildlife Refuge System. The System meets the needs of many species of migratory birds, as well as many other wildlife species. It also is enjoyed and visited by more than 30 million Americans each year. To meet the continuing habitat requirements and the educational needs of citizens interested in wildlife, the System must be expanded.

3. Enhancement of the refuge fishery program. The extensive wetlands, lakes, ponds and riverine systems within the National Wildlife Refuge System also provide valuable fishery habitats and fishing opportunities. Enhancement of the fishery program on the System is needed to expand its use, build a broader constituency and meet the demands of the growing sport fishery in this Nation.

4. Additional funding of fish and wildlife management programs. In 1980, the Fish and Wildlife Conservation Act was passed. This Act recognizes that both the federal and state governments have responsibility for all species of wildlife and that additional funding is needed for habitat protection and balanced wildlife programs. The Act has never been funded even though citizen interest and participation in wildlife observation and other non-harvest activities continue to increase each year.

Only a small percentage of Americans are likely ever to experience ANWR first hand. We think it is very essential that any returns from the ANWR resource have a constructive impact on fish and wildlife resources throughout the Nation, particularly in areas more appropriate for public access and enjoyment.

The organizations indicated believe that a substantial portion of the potential oil and gas revenues should and must be earmarked for enhancing and improving conditions for fish and wildlife, and that such provision would find favor with the public. We would be pleased to work with the Congress to develop and support this concept.

American Fisheries Society
International Assocation of Fish and Wildlife Agencies
National Wildlife Refuge Association
Sport Fishing Institute
Trout Unlimited
Wildlife Management Institute

The CHAIRMAN. Thank you very much, Mr. Berryman.

Let me say that one of the problems for using this money for management purposes, as opposed to land acquisition, is that the fund, if we created it, would then—it might then be used just as a substitute for dollars that otherwise were going to be spent on the budget anyway.

I know about the huge needs, for example, at the national parks and at the wildlife refuges for management funds. Indeed, we have just passed legislation out of this Committee, enacted into law, to increase funds on our parks system to get that management money.

And one of our greatest concerns was that those additional funds not replace the annualized budgets, considering the pressure from OMB and others. So that is our dilemma with respect to management funds.

But I really think if we have a fund to manage, which 735, or a potential fund to manage, which 735 would give us, then we could consider that overall management plan, overall reconsideration of the Land and Water Conservation Fund, and all of these various competing uses.

Local funds—I mean, local match for parks and recreation, have been a very strong priority of mine that ought to fit into the proposition somewhere, and I think it could. I think it deserves a thorough airing and a thorough debate.

But I get back to the basic purpose of S. 735 is not to move ANWR, as those of you who have seen our hearings here—I stated before the hearings and during the hearings and at all phases of those hearings that I personally, and I hope the Committee, would keep a completely open mind and listen to all of the evidence pro and con before any decisions of any kind are made.

And I hope the Committee will do that, and I think they have. I mean, obviously some Committee members have their points of view, but I think most Committee members are very carefully considering this question.

And I think it is possible for a Committee member and a member of Congress to consider what you might use the funds on S. 735 or the ANWR funds for. You can consider that without that influencing what you do on ANWR.

If you think about it, there are two alternatives: first, to consider it as part of the ANWR legislation as it comes up. Then everybody can come in and say, well, we had a compromise here, we gave a little bit to the environmental community, and we compromised it and allowed the drilling to proceed.

Or the second alternative, which is the worst of all worlds, is just to ignore it altogether, let the train leave the station, and then come back next year and say: Well, why don't we increase the Land and Water Conservation Fund to a billion dollars and take it out of—where?

You know, then you try to break the bank with OMB. You are not going to have the Department of the Interior and the Department of Agriculture coming in and saying, we are taking no position with respect to your bill. They are not going to be saying that.

If you have already passed the legislation, then they are going to be saying: We have got the needs of the old folks who have to have

nutrition, we have got the needs of education, and you can go right down the litany list. And when you go down that list, as much as I believe in parks and recreation and wildlife refuges and all of those needs, it is hard to grab somebody else's money for those needs.

And I have tried to do it, lo these many years, with only occasional success.

So now that we have got everybody in the mood, the Administration says: Well, we do not know, we may not be for it, but go ahead, we will look the other way. For gosh sakes, let us do it and then forget about it and not let that influence at all what we do on ANWR.

And after all, you may win the battle this year on ANWR, and next year there may be an energy crisis, or the year after that, or maybe five years from now, and we will be awfully glad that we have something in place to give us these funds if that happens.

I am not asking, really, for the support of the environmental community, because I well understand that you cannot be perceived as making, in effect, a compromise. But if you will, all of you have made your positions clear. I have got a letter with virtually every environmentalist in the country.

And by the way, I appreciated the words of praise in the letter. It is only the conclusion that I disagree with. [Laughter.]

The CHAIRMAN. But this is the most gilt-edged list of environmentalists in the whole country, including my son's boss is on here.

So I hope, that position having been made clear, you will let us go ahead and pass it if we can. And as I say, then consider ANWR in a completely dispassionate and uninfluenced arena and point of view.

Gentlemen, we always appreciate your testimony and your advice.

I do have an amendment vote that I have to go to, after which I will go to the 302(b) allocation.

If there is anything that you think of after this hearing that you want us to consider in writing or orally, please let us know. In other words, you may continue to oppose the bill, but say, just in case it passes we would like for you to redo it in this way or that. We would like that advice.

Thank you very much.

[Whereupon, at 3:45 p.m., the hearing was adjourned.]

APPENDIX

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

THE WILDERNESS SOCIETY

STATEMENT OF GEORGE T. FRAMPTON, JR., PRESIDENT, TO THE PUBLIC LANDS, NATIONAL PARKS, AND FORESTS SUBCOMMITTEE OF THE SENATE ENERGY AND NATURAL RESOURCE COMMITTEE REGARDING THE LAND AND WATER CONSERVATION FUND, JULY 14, 1987.

The Wilderness Society appreciates this opportunity to submit its views on Senate Bill 735, "Amendments to the Land and Water Conservation Fund," for the hearing record of July 14, 1987. The Wilderness Society is a national conservation organization with over 175,000 members nationwide. The Wilderness Society joins the Alaska Coalition, the National Parks and Conservation Association, and other major conservation organizations in strongly opposing S. 735.

The Society appreciates the efforts of the bill's author, the distinguished Chairman of the Energy and Natural Resources Committee, Senator Bennett Johnston, to assure a stable source of funding for the Land and Water Conservation Fund. The bill provides a mechanism whereby twenty-five percent of "...all revenues received from competitive bids, sales, bonuses, royalties, rents, fees, interest charges or other income derived from the leasing of oil and gas resources within units of the National Wildlife Refuge System..." shall be deposited into a special account within the Land and Water Conservation Fund. In his statement accompanying introduction of the bill, Senator Johnston said, "What this really means is if we lease the Arctic National Wildlife Refuge in Alaska which many think is as rich as Prudhoe Bay, we will get dedicated to this fund 25 percent of those revenues, whether from bonuses, leases, or royalties, and they will come automatically to the fund." Senator Johnston went on to say that "this bill does not prejudge what we should do with respect to leasing or exploration or development in the Arctic National Wildlife Refuge."

S.735's passage will in fact seriously prejudice the debate over ANWR.

We have no doubt that Senator Johnston does not intend S. 735 to prejudice or influence Congressional deliberations on the fate of the Arctic National Wildlife Refuge. Unfortunately, we are convinced that the passage of the bill will be used by others to do precisely that, regardless of Senator Johnston's good intentions. Passage of the bill would make it easier for

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many to support opening up the Arctic Refuge to oil and gas leasing on the grounds that the damage done to the Refuge is compensated for in part by the fact that some of the proceeds will be used to save land elsewhere. We oppose this trade-off. As we have already testified at length before this Committee, the Refuge is the last unspoiled area of its kind in the entire Northern Hemisphere, and should be preserved as wilderness.

S. 735 incorporates a dangerous precedent into the Land and Water Conservation Fund by encouraging development of existing conservation units.

The funding mechanism in the bill will result in tremendous pressure being placed upon Fish and Wildlife Service personnel to lease other units of the National Wildlife Refuge System in order to generate revenues, even where such leasing is not really consistent with the purposes for which the refuges were established. It certainly was not Congress' intention in setting aside the refuges that they were to serve as fundraising mechanisms for federal land acquisition programs. The refuges are supposed to protect our fish and wildlife resources, including endangered species.

S. 735 should be considered together with other legislation exploring alternative methods for future funding of the Land and Water Conservation Fund.

The Wilderness Society is actively participating in the on-going search within both the conservation community and the Congress to find a mechanism which will assure stable funding for the Land and Water Conservation Fund. It is our firm belief that the mechanism of S. 735 is not the answer. The bill should be the spark that ignites a series of hearings and debates by the Energy and Natural Resources Committee over future appropriation alternatives for the Land and Water Conservation Fund, especially in light of other LWCF bills recently introduced in the Senate. This hearing should be the <u>first</u> and not the <u>last</u> in a series of hearings by the Public Lands Subcommittee to find a better mechanism for the Land and Water Conservation Fund.

If S. 735 is to be seriously considered by this Committee, a $160 million level is far too low.

S. 735 automatically dedicates $160 million a year from OCS receipts to federal land acquisition dollars. However, $160 million of dedicated funds does little in the way of correcting the backlog of acquisition projects, and is less than the appropriations process has provided in the past 10 years. Last year Congress appropriated $185 million in LWCF funds, in a very austere budget period. This year the Senate Budget Committee reported to the Senate floor a budget resolution containing $250 million in budget authority for LWCF. The House two weeks ago

passed its FY'88 Interior Appropriations bill which contained approximately $125 million for LWCF. With possibly higher budget allocations in the Senate, there are expectations of passing the FY'88 appropriations for LWCF above the $160 million level.

Setting an amount of dedicated land acquisition dollars by taking an average from the last six years of the Reagan-Watt Administration era would not be a step forward in reforming the Land and Water Conservation program, but a step backwards. We believe the support by the Appropriations Committees in the House and Senate to fund LWCF, despite zero administration budgets and restrictive budget ceilings demonstrates the willingness of Congress and the American public to protect and preserve our nations' natural and recreational lands.

For these reasons we oppose S. 735. Thank you for the opportunity to comment on this important matter.

TESTIMONY BY DERRICK CRANDALL, PRESIDENT, AMERICAN RECREATION COALITION, BEFORE THE UNITED STATES SENATE, SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER, REGARDING S.735, A BILL TO AMEND THE LAND AND WATER CONSERVATION FUND, JULY 14, 1987.

The American Recreation Coalition is pleased to submit its thoughts on proposed amendments to the Land and Water Conservation Fund, including those contained in S.735. Our organization is a national federation of more than 100 organizations and corporations with a vital interest in the fund and its contribution to outdoor recreation opportunities. Moreover, ARC and its staff played an active role in debate by and before the President's Commission on Americans Outdoors regarding the future of the fund.

We applaud the initiative of Senator Johnston in bringing before this body new ideas for the fund, including the earmarking of receipts attributable to oil and gas activities within units of the national wildlife refuge system. We share his belief that such receipts can and should result in a lasting benefit to conservation and recreation. We also share the Senator's conviction that some oil and gas development can occur safely within some refuges.

Yet we are not prepared to urge passage of this measure because we believe that important debate remains needed on the goals of the LWCF or its successor into the 21st century and on the mechanisms which are most likely to achieve those goals.

Americans today can be proud of joint ownership of the world's first and best national park system, a marvelous national forest system, extensive refuges for wildlife, a diverse network of state,county and local tracts and other public lands. This collage of quality outdoors resources is a monument to thoughtful, concerned Americans of past generations. The result is an unequalled choice of outdoor activities for us today. We, in turn, have an obligation to pass on this legacy and to contribute to it in a real way. The LWCF, or its successor, can be a vital tool in making this contribution.

We would offer three goals for the revised fund:

- it should enable us to protect and improve the existing federal land systems, especially through acquisition of lands and interests in land within designated unit boundaries.
- it should assist in addressing the need labeled as the most pressing by the President's Commission on Americans Outdoors: open spaces in and around our urban areas.
- it should assist in the development of those facilities and features which are needed to maximize the enjoyment of the outdoors, from trails to swimming areas.

TESTIMONY BY DERRICK CRANDALL
LAND AND WATER CONSERVATION FUND AMENDMENT
PAGE TWO

To achieve these goals, we believe some new approaches can be taken. First, negotiations for the purchase of land, or interests in land, are often protracted undertakings. Moreover, negotiations can occur only when the prospective buyer has a means to consummate the sale. For this reason, we strongly favor a true trust fund, with a dedicated source of revenues and a multiple year appropriation authority. While unusual, funds of this type do exist, and even exist in the natural resources field. Both the Pittman/Robertson Trust Fund and the Aquatic Resources Trust Fund (better known as the Wallop/Breaux Trust Fund) are such examples. Sources and levels of funding for this program deserve full discussion, but we support the earmarking of a percentage of OCS receipts to this cause. As the nation decided through its elected representatives in 1965, it makes sense for all Americans to gain a permanent legacy from the sale of nonrenewable public resources.

We urge this committee to consider funding five separate programs from this new and strengthened fund:

- federal land acquisition for all land managing agencies;
- state and local land acquisition grants, with the federal share of total cost ranging up to 50%;
- federal road maintenance and rehabilitation, for public roads not part of state or local road systems;
- state and local recreation facility and feature development loans; and
- innovation grants for federal, state, local and nonprofit recreation initiatives.

Several of these programs are quite traditional, but several represent important departures from past LWCF practices. We urge consideration of a permanent diversion of an appropriate sum from the Highway Trust Fund to the new trust fund in an amount equal to the needs of federally-maintained roads within our lands system which are essential for recreational access. We do not propose a program to build new roads, but rather a program to ensure that the roads which now exist offer safe passage to the millions of Americans using them each year.

We also recommend that the state grants program be modified. We find great appeal to the philosophy that a portion of the receipts collected from the sale of a nonrenewable resource, in this case Outer Continental Shelf oil and gas resources, should be reinvested in a way which leaves a lasting legacy. And because the greatest need for additions to the legacy we now enjoy is for close-to-home areas near our urban centers, we believe federal assistance to state and local government efforts should be provided. We would like to see this assistance act as a catalyst for comprehensive efforts to protect and make

accessible open spaces, including shaping growth. Perhaps the federal share of land acquisition projects should be 33% except where a jurisdiction has completed a strategic plan for meeting its needs. In those cases, the federal match could be higher, since many costs would be internalized by the residents of the area. We would urge an end to grants for facility development, however, since these investments --while critically important -- are not permanent legacies but depreciating structures.

The result would be a state grants program with eligibility criteria comparable to the federal acquisition program.

State and local recreation development projects could still be aided, though, through a program included in the recommendations of the PCAO: a loan program which provides for a high percentage of project costs, with no- or low- interest rates and designed to allow projects to be completed and, at least in some cases, generating fees before payback begins. The permanent legacy concept would continue, since loans could be repaid to a permanent revolving loan fund. After a period of years -- perhaps fifteen -- loan repayments would be sufficient to continue the program without new federal dollars.

We also strongly endorse the commission's recommendation for a new innovation grant program, designed to encourage creativity, experimentation and partnerships. Change is a reality in America's recreational preferences, and land managing institutions often face difficulties in keeping pace with these changes. We believe a special innovation grants program, open to federal, state and local agencies as well as nonprofits, could counteract those difficulties.

As a final note, we urge the committee to consider the earmarking of a specific percentage of OCS receipts to the LWCF successor. This strikes us as a fair means to insure that as revenues climb, an appropriate increase in revenues will result while also assuring that this program will not lay claim to a disproportionate share of the receipts during periods of low OCS activity.

A chart displaying the operations of the revised fund is attached for the committee's consideration.

We thank you for your attention to these suggestions.

Derrick A. Crandall, President
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Booth Gardner
Governor of Washington
Vice Chairman

Paul M. Cunningham
Executive Director

July 7, 1987

The Honorable Dale Bumpers
Chairman
Senate Subcommittee on Public
Lands, National Parks and Forests
308 Dirksen Senate Office Building
Washington, D.C. 20510

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Dear Mr. Chairman:

The Western Governors would like to express their opposition to S.735, legislation which would amend the Land and Water Conservation Fund (LWCF). This bill would change a longstanding Federal philosophy regarding the use of public lands and may not resolve the constraints which have hindered implementation of the Land and Water Conservation Fund.

The Minerals Leasing Act of 1920 and the Reclamation Act of 1902 currently provide for the distribution of revenues to state governments from oil and gas leasing within units of the National Wildlife Refuge system created from public lands. Under these laws, our states are entitled to receive 50 percent of the rents, royalties and bonuses from leasing. An additional 40 percent of these revenues finance the Reclamation Fund which is used to develop reclamation projects in our states.

S.735 would reduce the states' share of revenue derived from petroleum leasing in National Wildlife refuges by depositing the revenues which would have gone into the Reclamation Fund under current law into the LWCF and the miscellaneous receipts of the Treasury.

The Minerals Leasing Act and the Reclamation Act are just two of a number of Federal laws which assist wester states by sharing the receipts for the use or development of the natural resources on Federal lands within their boundaries. These laws reflect a philosophy of land management which Congress has consistently applies since the turn of the century. That philosophy embodied a compromise in which the Federal government retained, rather than disposed of, large areas of public lands within a state's boundaries. In exchange, the affected states were to receive a set share of the revenues produced from development of those lands.

The legislative history of the Minerals Leasing Act of 1920 illustrates not only this conscious departure from past practice but also the Congressional intent to limit the Federal share of revenues from leasing.

We find S.735's alternation of the historic compromise especially troubling because in the case of one western state, Alaska, where the revenue sharing provisions are part of the Statehood compact between the State and the Federal Government. It should be noted that Alaska does not share in the Reclamation Fund, but instead receives 90 percent of the revenue directly. We believe that unilateral changes to agreements between the Federal government and the people of a state are unconstitutional and that such a precedent could lead to Congressional alteration of other fundamental provisions of our compacts with the Federal Government.

Finally, insufficient revenue does not appear to be a barrier to full implementation of the LWCF. The revenue sources which currently finance the fund significantly exceed the $900 million ceiling in current law. Further the Federal Government has spent far less than the authorized amount over the last decade. For example, the government's actual expenditures over the five year period from 1981 to 1985 averaged only $359 million.

To conclude, we oppose alternation of revenue sharing formulas which were intended to compensate states for Federal retention of public lands within our states. Further, we do not believe that the proposal is necessary to achieve the worthy goals of the LWCF.

This letter is being sent out on behalf of Governors Steve Cowper (AK), Evan Mecham (AZ), George Deukmejian (CA), Roy Romer (CO), John Waihee (HI), Cecil Andrus (ID), Ted Schwinden (MT), Richard Bryan (NV), Garrey Carruthers (NM), George Sinner (ND), Neil Goldschmidt (OR), George Mickelson (SD), Booth Gardner (WA), Michael Sullivan (WY), and myself.

Thank you for considering our views on this matter.

Sincerely,

Norman H. Bangerter
Governor
Chairman Western Governors' Association

NHB:ras

Working for the Nature of Tomorrow

NATIONAL WILDLIFE FEDERATION

1412 Sixteenth Street, N.W., Washington, D.C. 20036-2266 (202) 797-6800

July 28, 1987

The Honorable J. Bennett Johnston
Chairman, Committee on Energy and
Natural Resources
136 Hart Senate Office Building
Washington, DC 20510

Re: Comments of the National Wildlife Federation on S. 735, a Bill to Amend the Land and Water Conservation Fund and for Other Purposes

Dear Mr. Chairman:

The National Wildlife Federation (NWF) would like to provide you with comments on S. 735. We are submitting these comments for inclusion in the record for the hearing your committee held on July 14, 1987, in regard to this bill.

The NWF is the Nation's largest not-for-profit, conservation-education organization, with over 4.6 million members and supporters throughout the United States and in 51 affiliated state and territory organizations. We have supported the Land and Water Conservation Fund (LWCF) since its beginning. This fund has been a vital source of revenue for the acquisition of wetlands and other lands which have enhanced federal fisheries and wildlife management programs. In particular, the LWCF has been one of the few weapons readily available to fight back against the rising tide of wetland loss.

As you are aware, appropriations from the LWCF have been variable over its lifetime, averaging about $596 million from 1976 to 1980, and $257 million from 1981 to 1986. Title III of S. 735 calls for the establishment of a "Special Account" within the Fund from which at least $160 million would be appropriated automatically each year for federal land acquisition. Creation of such an earmarked special account would lend stability to annual appropriations from the LWCF. Therefore, the NWF supports the concept of an automatic, earmarked appropriation from the LWCF, which is embodied in S. 735.

However, there are several reasons why the NWF cannot support this particular legislation. First, the NWF does not support the bill's implicit tie to the proposal to extract oil from the Arctic National Wildlife Refuge. The "Special Account" of Title III would derive part of its income "...from the leasing of oil and gas resources within units of the National Wildlife Refuge System

pursuant to leases issued after the date of enactment of this title ... ." Based on the large data gaps in the Department of the Interior's 1002 Report, the NWF contends that more information is needed before a decision on the proposal can be reached. Thus, we consider proposals, such as those contained in S. 735, for allocating revenues from oil extraction activities to be premature.

Second, oil extraction revenues derived from National Wildlife Refuges are unnecessary for improving the effectiveness of the LWCF. As you know, much of the annual authorization for the LWCF is not appropriated. Congress can change this situation at any time by making larger appropriations available or by establishing an automatic funding mechanism. The NWF would like to see the LWCF gain true Trust Fund status with attendant automatic annual appropriations for federal land acquisition. Substantial, long-term benefits will accrue to the Nation from establishment of such a Trust Fund. This can be achieved without adding revenues derived from the Arctic National Wildlife Refuge, or any other National Wildlife Refuge, for that matter.

Finally, should the day arrive when revenues are derived from oil extraction on the Arctic National Wildlife Refuge, or other National Wildlife Refuges, most, if not all, federal revenues should be reinvested into management and expansion of the National Wildlife Refuge System. There are many fisheries and wildlife funding needs within the System, and revenues derived from the System should not be diverted away from these needs.

The foregoing reflects our view of S. 735. Thank you for the opportunity to provide these thoughts.

Sincerely,

Lynn A. Greenwalt
Vice President
Resources Conservation
Department

LAG:sm